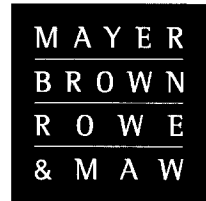


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April 24, 2006



Mayer, Brown, Rowe & Maw LLP  
1909 K Street, N.W.  
Washington, D.C. 20006-1101

Main Tel (202) 263-3000  
Main Fax (202) 263-3300  
www.mayerbrownrowe.com

**Robert M. Jenkins III**  
Direct Tel (202) 263-3261  
Direct Fax (202) 263-5261  
rmjenkins@mayerbrown.com

BY HAND-DELIVERY

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings

Re: Finance Docket No. 34818  
City of Jersey City, et al.  
Petition for Declaratory Order

Part of  
Public Record

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of "Reply Statement of Consolidated Rail Corporation." Also enclosed is a disk containing the Reply and Verified Statements in Word format. Please date-stamp the enclosed extra copy and return it to our representative.

Sincerely yours,

Robert M. Jenkins III

RMJ/bs

Enclosures

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 34818**



**CITY OF JERSEY CITY, RAILS TO TRAILS CONSERVANCY,  
PENNSYLVANIA RAILROAD HARSIMUS STEM EMBANKMENT  
PRESERVATION COALITION, AND NEW JERSEY STATE ASSEMBLYMAN  
LOUIS M. MANZO—PETITION FOR DECLARATORY ORDER**

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**REPLY STATEMENT  
OF  
CONSOLIDATED RAIL CORPORATION**

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Jonathan M. Broder  
CONSOLIDATED RAIL CORPORATION  
2 Commerce Square  
2001 Market Street  
Philadelphia, PA 19101  
(215) 209-5020

Robert M. Jenkins III  
MAYER, BROWN, ROWE & MAW LLP  
1909 K Street, NW  
Washington, DC 20006  
(202) 263-3261

**Attorneys for Consolidated Rail Corporation**

**Dated: April 24, 2006**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 34818**

**CITY OF JERSEY CITY, RAILS TO TRAILS CONSERVANCY,  
PENNSYLVANIA RAILROAD HARSIMUS STEM EMBANKMENT  
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LOUIS M. MANZO—PETITION FOR DECLARATORY ORDER**

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**REPLY STATEMENT  
OF  
CONSOLIDATED RAIL CORPORATION**

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**INTRODUCTION AND SUMMARY**

Pursuant to the Board's decision served February 8, 2006, Consolidated Rail Corporation ("Conrail") replies here to the Opening Statement of Petitioners City of Jersey City, Rails to Trails Conservancy, Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, and New Jersey State Assemblyman Louis M. Manzo (collectively, "Jersey City" or "the City"). Attached in support of Conrail's Reply are the verified statements of Robert W. Ryan and John K. Fiorilla and accompanying exhibits.<sup>1</sup>

Jersey City's fundamental argument in this case is that (1) a half century ago the Harsimus Cove Yard and elevated lead ("embankment lead") into that yard constituted a

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<sup>1</sup> The verified statements are referenced herein as "Ryan VS" and "Fiorilla VS." The exhibits are referenced as "Exh."

Pennsylvania Railroad "line of railroad" providing through rail service to New York City via lighterage over the Hudson River and (2) Conrail could not for regulatory purposes "downgrade" the embankment lead and yard track by "reclassifying" it as spur or yard track. The fundamental fallacy in Jersey City's argument is that it was the United States Railway Association (USRA), not Conrail, that determined in the early 1970s which of the thousands of miles of track before the bankruptcy courts in the Northeast were to be operated as "lines of railroad." Conrail was not the "successor" to the Pennsylvania Railroad (by then, the Penn Central Railroad) or any of the other bankrupt railroads whose assets were winnowed by USRA to create a new rail system. Conrail started from scratch, with only the obligations that Congress, through USRA, imposed on it. If track was not transferred to it as a "line of railroad," Conrail had no obligation to treat it as a "line of railroad."

The City argues that since the "Harsimus Branch," Line Code 1420, Mileposts 1-7, was conveyed by USRA in the Final System Plan ("FSP") to Conrail, that must mean that USRA intended to convey the Harsimus Cove Yard and embankment lead as a "line of railroad" or segment thereof. But the "Harsimus Branch" designation is at best confusing, since the term "Harsimus Branch" historically referred only to the one and one-half mile track that veered off from the main line, and that ran west to east, from Station 0+0 (Milepost 0.0) at Waldo Avenue to the piers on the Hudson River that had been used years earlier for the lighterage operations at Station 78+03 (Milepost 1.48). USRA made clear not only in the FSP but also in the deed conveying the property, which attached the relevant valuation maps, that what it intended to convey was the line of railroad at the heart of Line Code 1420. That was the old main line of the United New Jersey Railroad and Canal Company ("UNJRCC"), which years earlier had leased its track to the Pennsylvania Railroad. That line ran from the bulkheads on the Hudson River

(Milepost 1) to Harrison (Milepost 7). Conrail combined that line with another rail line (Line Code 1420) to make up its "Passaic and Harsimus" line—which *began* at Waldo Avenue.

The only reference to the Harsimus Cove Yard or lead into it was in the "Exceptions and Additions" to the FSP, where USRA made clear that only part of the yard was being conveyed to Conrail. There was no suggestion that the yard was part of a "line of railroad," except as auxiliary track that was conveyed along with the line to which it pertained. It would have made no sense for it to be conveyed as a line of railroad, because no through traffic moved through the yard. And Conrail understood that. Even before Conrail took over the line, it had set forth in its timetable the various branch lines that would constitute its New Jersey Division, and the "Passaic and Harsimus Branch" *began* at CP Waldo and ran westward to Lane. When Conrail took over operations on April 1, 1976, its General Order No. 1 reiterated that the Passaic and Harsimus Branch ran "between CP Waldo (MP 0.0) and Lane (MP 9.3)." (Ryan VS at 8; Exhs. A and D.)

Conrail always treated the Harsimus Cove Yard and embankment lead into it as spur and yard track, and so did Jersey City. The City pressed relentlessly for Conrail to tear up the tracks and make it available for redevelopment, and Conrail cooperated in doing so wherever it could without disrupting the few remaining switching operations in the yard area. Neither Conrail nor the City ever suggested that authorization from the ICC (or, later, the STB) was required to sell off the property. By the late 1980s, approximately 90% of the property had been sold in half a dozen different transactions, both to private developers and to the Jersey City Redevelopment Agency, and the last shipper had left the area. Conrail maintained the embankment lead only because part of one of the tracks was being used as turnaround space for a train serving a shipper in Kearny, New Jersey. When the City pressed Conrail to tear up the track and demolish the

bridges connecting the remaining parcels, Conrail agreed to do so as soon as it finished a track connection west of CP Waldo that would eliminate the need for the turnaround space.

As soon as that connection was completed, in 1994, Conrail removed the switch connection to the lead track and permitted the City and a private developer to remove one of the bridges at the east end of the lead. Conrail then proceeded to remove the track along the lead, and by 1997 had also removed the rest of the bridges connecting the “embankment” parcels. At no point in this entire process did the City, the Jersey City Redevelopment Agency, or any of the private developers contend that abandonment authorization from the ICC or the STB was required, and Conrail gave them no reason to think it was required.

Once the rail infrastructure was removed, Conrail offered the parcels of land that were left for sale to the City and engaged in active negotiations with the Jersey City Redevelopment Agency for that purpose. The Redevelopment Agency had surveyors, appraisers, development experts, architects, and others examine the property between 1997 and 1999, but the City and Redevelopment Agency lost interest in acquiring the property, and moved on to other projects, when a group of citizens, over the City’s strong objection, succeeded in having the “embankment” parcels listed on the New Jersey State Register of Historic Places. When no other public entity came forward to purchase the property, Conrail in October 2002 put the parcels up for bid. Conrail made sure to send the Redevelopment Agency the bid package, but the City and the Redevelopment Agency made clear they no longer had any interest in the property. Accordingly, Conrail began negotiations to sell the property to the only bidder, SLH Holding Co., LLC (“SLH”), that had met Conrail’s minimum bid requirements.

In late 2003, Conrail received a letter from the City proposing “opening a dialogue” about a public entity acquiring the property. Conrail met with representatives of the City and the

Harsimus Stem Embankment Preservation Coalition; however, it never received a concrete proposal meeting its minimum requirements from anyone other than SLH. In early 2005, when Conrail's negotiations with SLH were well advanced, Conrail was contacted by an eminent domain lawyer, John Curley, who had been retained by the City. Conrail cooperated with Mr. Curley's requests for information, but Conrail made clear that it had a legal commitment to SLH that it intended to keep. When and if the City got around to condemning the property, its legal right to do so would not be affected by whether the property was in Conrail's hands or the hands of the entities (the Intervenor in this case) that SLH created for purposes of acquiring the individual parcels of property at issue. Conrail closed the sales of those parcels to the Intervenor in July 2005.

It was only then, when the Intervenor began presenting their development plans to the City Planning Board, that the City began asserting that abandonment authority was required from the STB before Conrail could "abandon" the "line of railroad" supposedly represented by the parcels of land SLH had acquired. Of course, the issue here is *not* rail service. There are no shippers and no one suggests there ever will be. What the City wants is a determination from the STB that abandonment authority is required, so that it can invoke in state court a New Jersey state law provision (N.J. Stat. § 48:12-125.1), which requires notice to state and local officials when a railroad seeks such abandonment authority, and prohibits sale of the rail line to anyone other than a state or local government for a 90-day period (absent a waiver by the government). Most importantly, it concludes that "[a]ny sale or conveyance made in violation of this [provision] shall be void." (Exh. EE.) The City, of course, has received years of notice about Conrail's intention to sell the property, and ample opportunity to negotiate a purchase or condemn the property. The state too—not only through the Jersey City Redevelopment Agency,

but also through notice that Conrail provided to the New Jersey Department of Transportation on April 12, 2005—has had ample notice of Conrail’s intentions. Nevertheless, the City hopes to be able to convince a state judge that Conrail has somehow circumvented the STB’s jurisdiction and that this gives the City grounds under state law to void Conrail’s property sales to the Intervenor.

The Board should not permit its processes to be so abused. The City leans heavily on *Chelsea Property Owners—Abandonment—Portion of the Consolidated Rail Corporation’s West 30<sup>th</sup> Street Secondary Track in New York, NY*, 8 I.C.C.2d 773 (1992) (*Chelsea Property Owners*), aff’d sub nom. *Consolidated Rail Corp. v. ICC*, 29 F.3d 706 (D.C. Cir. 1994), to argue that the STB does not lose abandonment jurisdiction because Conrail has not used a line for a long period of time. But that is not the point here. Conrail indisputably acquired the West 30<sup>th</sup> Street line as a line of railroad in the FSP, and Conrail steadfastly maintained that it was a line of railroad for which abandonment authority was required during the entire period of its non-use. Here, Conrail did not acquire the Harsimus Cove Yard and lead into that yard as a line of railroad, and neither Conrail nor anyone else ever claimed that it was a line of railroad—until the City’s last-minute change of mind after the property had been sold. If the City wants to condemn the property, nothing about the sale to the Intervenor prevents it from doing so. But it should not be permitted to use the Board’s processes to upset a settled transaction and draw Conrail into the fray.



## ARGUMENT

### **I. UNDER THE FSP, CONRAIL ACQUIRED THE HARSIMUS COVE YARD AND EMBANKMENT LEAD AS AUXILIARY YARD AND SPUR TRACK, NOT AS A "LINE OF RAILROAD."**

Jersey City does not deny that the key question in this case is the character of the property conveyed by USRA to Conrail. Conrail and the Intervenor take the position that USRA conveyed the Harsimus Cove Yard and embankment lead as yard and spur track, not as a "line of railroad." Jersey City asserts the opposite. City Statement at 25-26. We address the City's position that this track was conveyed as a "line of railroad," or segment thereof, in Part I.A. below.

The City's second argument is that Conrail could not "downgrade" or "reclassify" track that it received as a "line of railroad." City Statement at 26-32. Since this argument assumes that USRA conveyed the track at issue as a "line of railroad," it puts the rabbit in the hat. As we discuss in Part I.B. below, Conrail has never argued that it could "downgrade" track through lack of use. But if Conrail acquired track from USRA as yard and spur track, it was entitled to treat it as yard and spur track, regardless of whether at an earlier point the Pennsylvania Railroad may have used that track differently.

#### **A. Conrail Acquired Only What USRA Conveyed, And USRA Did Not Convey Any Of The Harsimus Cove Yard Property As A "Line Of Railroad."**

Conrail was a unique railroad formed under unique circumstances. "A rail transportation crisis seriously threatening the national welfare" was precipitated by the successive bankruptcies of eight major railroads in the northeast and midwest region of the country. *Reg'l Rail Reorganization Act Cases*, 419 U.S. 102, 108 (1974). Congress responded by passing comprehensive legislation, the Regional Rail Reorganization Act of 1973, Pub. L. 93-236 ("3R Act"), which was designed to build on a "clean slate" a new railroad, Conrail, "from the

wreckage that was the northeastern rail system.” *City of Philadelphia v. Consolidated Rail Corp.*, 222 F.3d 990, 992 (D.C. Cir. 2000). For that purpose, Congress established a new government corporation, USRA, and empowered it to pick and choose among the properties of the bankrupt railroads and designate in the FSP which of those properties would be acquired by Conrail. Under Section 303(b)(2) of the 3R Act, Conrail received those properties “free and clear of any liens or encumbrances,” and under the Rail Act’s “fresh start” policy Conrail could not be held responsible for the obligations of the bankrupt railroads with respect to those properties. *See, e.g., Penn Cent’l Corp. v. United States*, 862 F.Supp. 437, 446 (Special Court 1994).

In other words, Conrail was not the legal successor to any railroad. It was an entirely new entity that acquired portions of the assets of bankrupt railroads. And what those assets were upon transfer—whether “lines of railroad” or auxiliary facilities like yards and spurs—was determined by USRA. The prior history of those properties was irrelevant. Indeed, if USRA did not include a rail line in the FSP, the 3R Act authorized its immediate abandonment. *See, e.g., STB Finance Dkt. No. 34618, East Penn Railway, Inc.—Modified Rail Certificate* (served December 1, 2004) (“The Octoraro Branch was not included in the final system plan at the time Consolidated Rail Corporation was formed and, as such, was authorized to be abandoned without further regulatory approvals pursuant to the [3R Act].”); *STB Finance Dkt. No. 33722, Brandywine Valley Railroad Co.—Modified Rail Certificate* (served April 16, 1999) (same).

USRA first prepared a Preliminary System Plan (“PSP”) discussing its preliminary views regarding lines that should or should not be acquired by Conrail, and then in the FSP specified the lines that were to be acquired by (“designated to”) Conrail. Ryan VS at 3. The FSP provided that yards, spur track, and other auxiliary facilities associated with rail lines designated to

Conrail would transfer automatically with those lines, unless the FSP provided otherwise. Ryan VS at 3-4; Exh. C at 261. The FSP line designation relied on by the City in this case is one of a number from the United New Jersey Railroad and Canal Company (“UNJRCC”), which had leased its lines years before to the Pennsylvania Railroad.

In his attached verified statement, Conrail’s witness Robert Ryan explains in detail why the City’s reliance on the “Harsimus Branch” designation is misplaced. (Ryan VS at 4-9.) In brief, the designation of “Harsimus Branch,” Line Code 1420, Mileposts 1-7, was a one-line summary of the property more fully described in the deed transferring the property to Conrail. The deed makes clear that “[t]he line of railroad described herein is identified as Line Code 1420 in the records of the United States Railway Association,” which is supported by valuation maps attached to the deed. (Ryan VS at 4-5; Exhs. AA, BB, and CC.) The valuation maps make clear that the “line of railroad” that was the focal point of Line Code 1420 was the old UNJRCC main line that ran from the Hudson River in the Harsimus Cove area through Journal Square to the intersection with the old New York Bay Railroad near Harrison (which continued from there as Line Code 1421). That “line of railroad” was laid out on six valuation maps—all designated as V-2.1 and Line Code 1420, beginning with number ST-1 at the bulkhead on the Hudson River and running through ST-6 to the “cut” with Line Code 1421. (Ryan VS at 5; Exh. BB.) The Harsimus Cove Yard track and embankment lead, in contrast, were set forth on *separate* valuation maps, designated as V-1.01, ST-1 and ST-2. They were auxiliary to the main line, just like all of the other spur and yard track that was part of Line Code 1420, and that transferred along with the “line of railroad” described in the deed. (Ryan VS at 5-6; Exh. CC.)

In its zeal to try to characterize the Harsimus Cove Yard and embankment lead as an integral segment of line of railroad at the heart of Line Code 1420, the City invents milepost

numbers that it recognizes do not fit, but which it nevertheless tries to claim can be derived as “approximations” of milepost numbers starting with Milepost 1 in Harsimus Cove Yard, to Milepost 1.3 at Henderson Street, to Milepost 2.54 at CP Waldo. (City Statement at 2 n.1.) The problem, among other things, is that the actual distance from CP Waldo to Henderson Street is less than a mile, not the 1.24 miles implied by the City’s “approximations.” (City Petition at 9.) The answer is on both the track chart and the valuation maps. The embankment lead and Harsimus Cove Yard track mileage was calculated *separately* from the old UNJRCC main line, and ran *west to east*, from 0.0 at CP Waldo, to .88 at Henderson Street, to 1.48 at the piers on the Hudson River. (Ryan VS at 5-6.) In contrast, the milepost designations for the old UNJRCC main line ran *east to west*, and CP Waldo was at 2.54 on that line. When the correct milepost numbers are used, it is readily apparent that USRA intended to use the mileposts applicable to the old UNJRCC main line to define the “line of railroad” it was transferring. (Ryan VS at 6-7.)

Further evidence of USRA’s intent is provided by the “Exceptions and Additions” to the FSP, which spelled out that some yards belonging to the transferring railroads were not transferred to Conrail, and some were transferred in part. The Harsimus Cove Yard was among those that was transferred in part. Nothing in the Exceptions and Additions referred to the Harsimus Cove Yard or the embankment lead into the Yard as part of the “Harsimus Branch” line specified in the FSP. It was simply one of a number of yards that were transferred to Conrail as ancillary facilities. (Ryan VS at 7; Exh. C at 262.)

As Mr. Ryan also discusses, additional evidence of USRA’s intent, and Conrail’s understanding of that intent, is provided by the timetables and operating orders that Conrail developed for the properties that were designated to it by the FSP. Almost *two years* before Conrail began operations, it set forth in its 1974 timetable the various branch lines that would

constitute its New Jersey Division, and the "Passaic and Harsimus Branch" was the "line of railroad" that Conrail created out of the Line Code 1420 and 1421 branch line track it received in the area. That track *began* at CP Waldo, *west* of the embankment lead and Harsimus Cove Yard track, and continued *westward*. (Ryan VS at 8; Exh. A.) CP Waldo was designated for operating purposes as milepost 0.0—the end of the line. When Conrail actually began operations on April 1, 1976, Conrail in its General Order No. 1 reiterated that the Passaic and Harsimus Branch ran "between CP Waldo (MP 0.0) and Lane (MP 9.3)." (Ryan VS at 8; Exh. D.) Thus, the evidence is clear that from Day One Conrail did not operate, and had no plans to operate, the embankment lead and Harsimus Cove Yard track as a "line of railroad" or as a segment of a "line of railroad."

The City argues that Conrail's track charts in 1976, 1977, and 1980 indicated that Conrail treated the Harsimus Cove Yard track and embankment lead as a "line of railroad" (City Statement at 31), but, as Mr. Ryan discusses, those track charts included *all* of the trackage in the area (including all of the yards, sidings, spurs, and other auxiliary property). (Ryan VS at 6; Exh. E.) Those early track charts, which were not used for *operating* purposes, continued to reflect the Pennsylvania Railroad milepost numbers for the old UNJRCC main line for a few years, but they were soon corrected to show the Passaic and Harsimus Branch beginning at Milepost 0.0 at CP Waldo. None of the trackage east of CP Waldo, including the embankment lead and Harsimus Cove Yard track, was even included on the track charts after 1982. (Ryan VS at 8-9; Exh. F.)

The City suggests that since as many as 3000 carloads of traffic were switched through the Harsimus Cove Yard for the remaining customers in the area in 1983, "Conrail was still using it as a dead-end branch, not a mere spur." City Statement at 31. But yard track used for

switching, including the lead into the yard, do not become “lines of railroad” by virtue of the number of cars switched there or the size of the yard. See, e.g., *Nicholson v. ICC*, 711 F.2d 364, 367-68 (D.C. Cir. 1983) (Congress intended to regulate main or branch lines of railroad used for “through service by full trains,” and not the “mass of tracks” used for switching and other services “incidental to, but not actually and directly used for, such transportation service.”) (internal quotation marks omitted) (quoting *Detroit & M. Ry. Co. v. Boyne City, G. & A. R.R. Co.*, 286 F. 540, 546 (E.D. Mich. 1923). See also *New Orleans Terminal Co. v. Spencer*, 366 F.2d 160, 166 (5<sup>th</sup> Cir. 1966), cert. denied, 386 U.S. 942 (1967) (“If . . . the trackage is used in the loading, reloading, storage and switching of cars incidental to the receipt of shipments by the carrier or their delivery to the consignee, then such trackage is ‘spur, industrial, team, switching or side tracks’ and as such, not under Commission jurisdiction.”) (citation omitted). Thus, there is no legal or factual foundation for the City’s suggestion that the switching Conrail performed for the few remaining shippers in the Harsimus Cove Yard area converted that “mass of tracks” from a yard into a regulated branch line.

**B. Conrail Did No “Downgrade” or “Reclassify” The Yard Or Embankment Lead, And Cases Concerning “Downgrading” Have No Bearing On This Case.**

As just discussed, Congress’ purpose in the 3R Act, and USRA’s purpose in the FSP, was to start Conrail with a “clean slate.” *City of Philadelphia*, 222 F.3d at 992. The Harsimus Cove Yard and embankment lead were acquired by Conrail as auxiliary spur and yard track, and were operated as such from Day One of Conrail’s existence. The City in its statement cites cases for the proposition that a railroad cannot “downgrade” or “reclassify” a line of railroad (City Statement at 23), but that assumes, incorrectly, that Conrail received the track as a “line of

railroad” in the first place. If there was any “downgrading,” it was done by USRA—which was specifically empowered by Congress to do exactly that.

The City also argues that a line does not become a spur simply from disuse (City Statement at 23), and it claims in this regard that the *Chelsea Property Owners* case is “devastating to anything Conrail may be trying to claim.” (id. at 29). In *Chelsea Property Owners*, developers seeking “adverse abandonment” of Conrail’s West 30<sup>th</sup> Street Track (the “Highline”) in Manhattan claimed that it had become a spur line. The ICC indeed held that the Highline had not become spur track simply because it had not been used for a long period of time. What the City ignores, however, is that USRA designated the Highline as a “line of railroad.” In fact, USRA discussed at some length in the Preliminary System Plan the question of whether the Highline should be transferred to Conrail as a line of railroad. (Ryan VS at 10.) USRA’s recommendation, in light of projections of close to 30,000 carloads per year of traffic on the line and the active support of the City of New York for transfer of the line, was that the “30<sup>th</sup> Street Branch” should be transferred to Conrail. (Exh. B at 639.) The FSP adopted that recommendation and transferred the line to Conrail as a line of railroad. (Exh. C at 281.) Conrail’s treatment of the Highline was completely consistent with that designation. It always treated the Highline as a line of railroad that it could not abandon without ICC or STB authorization. Conrail never claimed that disuse of the Highline permitted it to “downgrade” or “reclassify” the line. It actively resisted efforts by developers to have it tear down the rail infrastructure, and it opposed the developers’ “adverse abandonment” petition. 8 I.C.C.2d at 777.

Thus, far from “devastating” to Conrail’s position, USRA’s, Conrail’s, and the ICC’s treatment of the Highline is completely consistent with Conrail’s position in this case. To be

clear, Conrail's position here is *not* that the decline in traffic being switched on the Harsimus Cove Yard track between 1976 and the mid-1980s enabled it to "downgrade" or "reclassify" property that it received as a "line of railroad." Conrail's position is that it did not receive that track as a line of railroad and never treated it as a line of railroad. It was already "downgraded" when Conrail acquired it.

## **II. CONRAIL'S AND JERSEY CITY'S CONSISTENT TREATMENT OF ALL OF THE HARSIMUS COVE YARD PROPERTY AS YARD AND SPUR TRACK UNDERSCORES THE WEAKNESS OF THE CITY'S BELATED CLAIMS.**

USRA and Conrail were not alone in treating the Harsimus Cove Yard track and embankment lead as spur and yard track. As Mr. Ryan discusses in his verified statement, Jersey City and the Jersey City Redevelopment Agency began working with Conrail to sell off the property for redevelopment, either to private developers or to the Redevelopment Agency, as soon as Conrail began operations in the Jersey City area. By the mid-1980s, Conrail had sold off nearly 90% of the property in a half-dozen different transactions. Conrail did not seek, and no one suggested it should seek, authorization from the ICC to sell off this track or the underlying land. Conrail only retained easements where it was necessary to be able to switch the few remaining shippers in the area. (Ryan VS at 10-11.)

The City was still not satisfied with the pace of development. Indeed, in 1984 the Mayor of Jersey City complained to the Chairman of Conrail that Conrail was not doing enough to dispose of "underutilized railroad property and trackage which services the remaining industrial facilities" in the Harsimus Cove area. (Ryan VS at 11; Exh. G.) Conrail continued to juggle the needs of the few remaining shippers and the City's redevelopment objectives until the last shipper left the area in the late 1980s. At that point, all that was left was the embankment lead. When the City began to dun Conrail to tear that down and sell it off, Conrail agreed to do so as



soon as it completed a track connection elsewhere (the "Marion Connection") that would eliminate the need to use the embankment lead for turnaround space for a train moving to a shipper in another part of the county. In the interim, Conrail agreed to work with the City to dismantle the tracks and bridges on the lead that were not needed for the turnaround operation. (Ryan VS at 11-12; Exh. H.)

Conrail's work was constrained by its own limited budget, and did not proceed fast enough for the City. In 1994, the City joined with a developer, National Bulk Carriers, Inc., that had earlier bought a large block of property from Conrail east of Henderson Street, to tear down the bridge over Henderson Street. (Ryan VS at 12; Exh. J.) When the Marion Connection was completed in 1994, Conrail removed the switch connecting the embankment lead to the main line and began planning for demolition of the remaining infrastructure on the line. The City repeatedly pressed Conrail to finish the job, but the demolition work was expensive, and Conrail did not finish it until 1997. (Ryan VS at 14.)

The City then commissioned a preliminary redevelopment study for the project (which the Jersey City Planning Board completed in March 1998), followed by an exhaustive study by Louis Berger & Associates, Inc., in association with Li-Saltzman Architects, P.C., which laid out a number of redevelopment alternatives, and was completed in July 1999. (Ryan VS at 14; Exhs. L and P.) At the same time, the Jersey City Redevelopment Agency was in active negotiations with Conrail to acquire the property for redevelopment. Pursuant to those negotiations, the Redevelopment Agency conducted extensive surveying, soil boring, demolition/clearance estimating, property appraisal, and other planning work. (Ryan VS at 14; Exh. K.) At no time during any of these negotiations did anyone suggest that there was any need for Conrail to obtain any kind of abandonment authority from the STB. The embankment lead property was treated

just as all of the other Harsimus Cove property that Conrail had sold off for redevelopment—as yard and spur track.

The City's redevelopment plans were sidetracked when a group of citizens petitioned the State of New Jersey to have most of the embankment lead designated as an "historic place." Because that designation would significantly limit the redevelopment alternatives for the property, both the City and Conrail opposed the designation, but the State nevertheless in 1999 placed the embankment lead on the State Register of Historic Places. (Ryan VS at 14-15; Exhs. N, O, and Q.) The City and the Redevelopment Agency thereafter stopped talking to Conrail about acquiring the property and moved on to other projects. Since the City and the Redevelopment Agency were no longer interested in the embankment parcels, Conrail in December 2001 sent out a bid notice to a number of potential developers, and in October 2002 formally put the parcels out for bid. Conrail was careful to send both the notice and the bid package to the Redevelopment Agency. (Ryan VS at 15; Exhs. R and S.) The Redevelopment Agency and the City reviewed the package, but they still had no interest. (Ryan VS at 15, Exh. T.) In January 2003, the City passed an ordinance designating the embankment part of the embankment lead as an "historic landmark," and Conrail informed all of the prospective bidders that the ordinance would require a successful bidder to obtain the consent of the Jersey City Historic Preservation Commission to proceed with development. (Ryan VS at 15-16; Exh. U.)

Only one bidder, SLH, met Conrail's minimum bid requirements. Accordingly, Conrail began negotiations with SLH to sell it the remaining parcels. In October 2003, Conrail received a letter from the City proposing "opening a dialogue" with Conrail to have a public entity acquire those parcels. (Ryan VS at 16; Exh. V.) By then, Conrail had been attempting to dispose of the property since 1997, and it had entered into a contract to sell to SLH as a result of the bidding

process. Conrail determined to proceed with the contract with SLH, but to remain open to any concrete proposals from other entities in the event the contracted sale was not completed. (Ryan VS at 16.) No such concrete proposal was ever forthcoming. The City was well aware that Conrail had a binding legal commitment to sell the property to SLH. (RyanVS at 17; Fiorilla VS at 2.) In late 2004 the City adopted an ordinance declaring that the property was needed for public use, and it hired an eminent domain lawyer, John Curley, to pursue that possibility. Conrail's counsel corresponded with Mr. Curley about the City's interest in the property, but Conrail never represented to the City or anyone else that it would, or could, hold up the sale to SLH while the City, once again, contemplated acquiring the property. (Ryan VS at 18; Fiorilla VS at 2-4.) The City's eminent domain authority under New Jersey law applied (and applies) in any event equally to condemnation of the property in SLH's hands as to condemnation of the property in Conrail's hands. (Fiorilla VS at 4.)

In April 2005, Conrail sent a detailed notification to the New Jersey Department of Transportation explaining Conrail's plan to sell the embankment lead property to SLH and requesting waiver of the state law regulatory filing and publication requirements governing sales affecting railroad property. (Ryan VS at 18-19; Exh. W.) In June 2005, Conrail received the Department of Transportation's approval, and in July 2005, Conrail closed the transaction with the various entities SLH had formed (the Intervenors in this case) to purchase the various parcels. (Ryan VS at 19; Exh. Y.)

It was only *after* Conrail had closed the sale and the Intervenors had begun presenting their development plans to the Jersey City Planning Board that the City began to argue that Conrail was required to obtain abandonment authorization from the STB before disposing of these last parcels from the Harsimus Cove area. We discuss next why, even were there any

serious question about the regulatory status of the Harsimus Cove Yard track, the Board should not permit its processes to be abused in this case to unwind a settled transaction. Our point here is that from the time Conrail acquired this track in 1976 to the time Conrail disposed of it in 2005—almost 30 years—not one party contended in any forum that Conrail was required to obtain abandonment authority to dispose of *any* of the Harsimus Cove Yard track, including the embankment lead. This is powerful evidence that *everyone* recognized that this track was spur and yard track, not a “line of railroad,” and that the City’s imaginative effort at this late date to pin a new label on the few remaining parcels should be rejected as what it is—purely revisionist history.

### **III. THE BOARD SHOULD NOT PERMIT ITS PROCESSES TO BE ABUSED BY THE CITY TO UNWIND A SETTLED TRANSACTION**

The City devotes considerable space in its argument to explaining why it should not be held to have waived any belated contention that the Harsimus Cove Yard property it worked for decades to have Conrail liquidate—with nary a peep about any supposed obligation to seek abandonment approval from the ICC or the STB—should now be considered property subject to the STB’s abandonment authority. (See, e.g., City Statement at 7-11, 32-38.) The City resorts to bizarre interpretations of a City engineer’s handwritten notes to attempt to argue that Conrail engineers misled a City engineer into thinking that Conrail would obtain abandonment authority for the property.<sup>2</sup> The City also states twice in its statement that the National Bulk Carriers’

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<sup>2</sup> The City draws the obviously unsupportable inference that the City engineer’s notes of a conversation with a Conrail engineer about an internal Conrail budgetary “AFE” or “Authorization for Expenditure” actually is about a request for “ICC” authorization. (City Statement at 9, 33; Ryan VS at 12-13.) Similarly, when the same City engineer’s notes reflect that a different Conrail engineer had told him that “[i]f it is a stub or branch line abandonment, it doesn’t need approval [from the ICC],” the City suggests nonsensically that the engineer’s loose

“project manager” had “always believed” that Conrail obtained abandonment authorization for the property it sold to National Bulk Carriers. (City Statement at 10 n.15, 36.) But the City’s own files contain a letter from the *president* of National Bulk Carriers in which he takes the position that *no* ICC authorization is required. (Ryan VS at 13; Exh. I.) Particularly since Conrail’s own listing of “spur lines” shows that Conrail’s lawyers contemporaneously confirmed that the track was “spur” track, it is impossible to credit the project manager’s contrary assumption. (Ryan VS at 13-14; Exh. FF.)

The City also attempts to suggest that it was motivated by safety concerns, rather than development concerns, when it encouraged Conrail and National Bulk Carriers to tear out all of the infrastructure that made rail service possible over the embankment lead. (City Statement at 33.) But if safety had been the City’s only concern, Conrail could have maintained the bridges and other rail infrastructure at considerably less cost than tearing it all down. As noted earlier, even when Conrail had active rail operations on the property, the City was dunning Conrail to cease those operations and sell off the property for development. The City never exhibited the slightest concern that Conrail might be running a risk if it tore out the rail infrastructure without ICC or STB authorization, because neither the City nor anyone else believed that ICC or STB authorization was required. It was not until after Conrail closed its sale with the Intervenor in 2005, and the Intervenor began to work with the Planning Board to advance their development plans, that the City suddenly decided that Conrail needed federal abandonment authority.

There is little doubt about the motive for the City’s belated effort to assert that the embankment lead is a “line of railroad.” It is not to preserve rail service. There are no shippers

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use of the term “branch line” amounts to recognition by Conrail that abandonment authorization *is* required. (City Statement at 7-8; Ryan VS at 12.)

and no infrastructure capable of providing service.<sup>3</sup> The City's purpose cannot be a Trails Act agreement, because there is no trail, and the City is fully aware that Conrail would not enter into such an agreement with the City in any event.<sup>4</sup> The City cannot have any genuine concern about historic preservation, because the "embankments" have already been subjected to state and local historic preservation requirements. What the City's belated claim is about is throwing a cloud under *state* law on Conrail's sale of the last pieces of property in this area, so as to obtain leverage in a possible condemnation action.

The City's position clearly proves too much. Conrail has disposed of over half a dozen pieces of property in the Harsimus Cove area with the City's active encouragement. Those properties are now, or will soon be, largely covered with hotels, office buildings, and residential developments. The City's position ostensibly is that "[t]he entire Harsimus Branch was at one point a through route all the way to interchanges (by float) on the Hudson River" and that "a railroad . . . must seek abandonment authorization for the through track in the yard." (City Statement at 36 n.24.) The City specifically proposes that Conrail should seek abandonment

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<sup>3</sup> Jersey City's own ordinances attached as Exhibit G to the City's Petition recite that the "Harsimus Branch" property "is no longer needed for any railroad purpose or use." (City Ordinance Nos. 04-096 and 05-064.)

<sup>4</sup> The law is clear under the Trails Act, 16 U.S.C. § 1247(d), and the Board's implementing regulations, 49 C.F.R. § 1152.29, that if the rail carrier "does not intend to negotiate an agreement for trail use," the applicability of the Trails Act fails even if the track in question is subject to the Board's abandonment authority. (*Id.* at § 1152.29(b)(1)(ii).) The City accuses Conrail of "exhibiting a Janus-like approach to the question: Conrail supported conversion of the Highline on Manhattan to trail use with arguments opposing the same kind of claims it is now indorsing [sic] across the Hudson in New Jersey." City Statement at 40. The City's accusation is flatly wrong. As discussed above, Conrail consistently maintained that the Highline was a line of railroad and always maintained the infrastructure on that line that could serve either to provide rail service or support trail use. In this case, in contrast, Conrail has never claimed that the Harsimus Cove Yard track and embankment lead constituted a line of railroad, and, with the City's urging, tore down all of the infrastructure that could have provided rail service or supported a trail.

authority—to “bring itself into compliance with applicable law”—regarding the property it sold to National Bulk Carriers years ago. (City Statement at 36-37.) Yet, under the City’s reading of N.J. Stat. § 48:12-125.1, that would render “void” the transaction with National Bulk Carriers unless every state, county, and municipal government entity entitled to notice under the state disclaimed in writing any interest in acquiring the property, at this late date, from **Conrail**. (Exh. EE.)

The Board should not permit its processes to be so belatedly and blatantly manipulated by the City in order to disrupt settled transactions. In the first place, there is no more reason to permit a state or municipality to misuse the Board’s abandonment authority than to permit a railroad to do so. See *Modern Handcraft, Inc.—Abandonment in Jackson County, MO*, 363 I.C.C. 969, 972 (1981) (“The function of our exclusive and plenary jurisdiction over abandonments is to provide the public with a degree of protection against the unnecessary discontinuance, cessation, interruption, or obstruction of available rail service. We will not allow our jurisdiction to be used to shield a carrier from the legitimate processes of State law where there is no overriding Federal interest in interstate commerce.”) Conrail is not now standing in the way, and never has stood in the way, of the City’s legitimate exercise of its condemnation authority under New Jersey law.<sup>5</sup> But Conrail no longer owns the property. The

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<sup>5</sup> The City suggests that at a meeting in March 2004, “Conrail” took the position at a meeting with representatives of the City and the Embankment Coalition that “City use of eminent domain [regarding the embankment lead] was preempted.” (Opening Statement at 33; Petition at 13, Exh. D.) Conrail’s witnesses Ryan and Fiorilla were Conrail’s representatives at that meeting, and they both testify that they took no such position. (Ryan VS at 16-17; Fiorilla VS at 2.) They note that the subject of Conrail’s legally binding commitment to SLH *was* addressed at the meeting. If there was any discussion of eminent domain, it likely revolved around the question of whether Conrail or SLH would be the subject of eminent domain, if and when the City decided to initiate condemnation proceedings. (Ryan VS at 17; Fiorilla VS at 2.) As discussed above, the City later the same year hired an eminent domain lawyer, John Curley.

City should not be permitted to use the Board's processes to attempt to try to unwind a transaction that closed almost a year ago—simply because the City would prefer to condemn the property from Conrail rather than the Intervenor.

Moreover, fundamental principles of finality, repose, and detrimental reliance militate against a decision by the Board in the City's favor. Conrail gave the City and the Jersey City Redevelopment Agency every opportunity to purchase the property at issue from Conrail between 1997 and 2002. The Redevelopment Agency was given the opportunity to bid on the property at the same time SLH was, but the Redevelopment Agency and the City were not interested. The City also had ample opportunity to condemn the property while it was still in Conrail's hands, but did not do so.<sup>6</sup> A decision in the City's favor could not only place a cloud on Conrail's transaction with the Intervenor, but also on Conrail's transaction with National Bulk Carriers and any other entity that the City or some other party could claim involved a "line of railroad" in the Harsimus Cove Yard area. In an analogous context, where parties seek to revoke exemptions under 49 U.S.C. § 10502 after a transaction has closed, the Board has made

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But it was not until 2005, when Conrail was well along in the process of closing the sale of the property to the Intervenor, that he began to inquire about the City's condemning the property. Conrail never made any representation to Mr. Curley or anyone else that it would hold up the sale of the property pending the City's consideration of whether to condemn the property. In fact, Mr. Fiorilla could not have made clearer that Conrail intended to honor its obligation to SLH. (Fiorilla VS at 2-3.) When Conrail did so, it certainly did not do so to evade the City's condemnation rights. The City has the same right to condemn the property in the hands of a developer as in Conrail's hand. (Fiorilla VS at 4.)

<sup>6</sup> The embankment lead ceased being transportation property for purposes of 49 U.S.C. § 10501(b) when Conrail tore out all of the rail infrastructure in 1997 and offered the embankment parcels for sale for development purposes. If the City or the Redevelopment Agency had wanted the property and could not negotiate a purchase with Conrail, they could have initiated condemnation proceedings at any time.



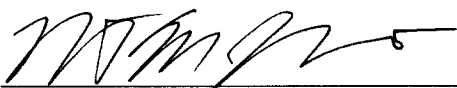
clear that “concerns for administrative finality, repose, and detrimental reliance must be balanced against any benefits to be derived from reopening and revocation of the exemption.” STB Fin. Dkt. No. 32162, *Indiana Hi-Rail Corp.—Lease & Operation Exemption—Norfolk & W. Ry. Co. Line Between Rochester & Argos, IN* (served Jan. 30, 1998), slip op. at 4-5. By the same token, the Board should look with a particularly skeptical eye on the City’s belated effort to use the Board’s processes to disrupt Conrail’s settled transaction with the Intervenor.

### CONCLUSION

For the foregoing reasons, the Board should deny the City’s request for declaratory judgment and find that Conrail did not require abandonment authority from the ICC or the STB to dispose of the property at issue in this case.

Respectfully submitted,

Jonathan M. Broder  
CONSOLIDATED RAIL CORPORATION  
2 Commerce Square  
2001 Market Street  
Philadelphia, PA 19101  
(215) 209-5020

  
Robert M. Jenkins III  
MAYER, BROWN, ROWE & MAW LLP  
1909 K Street, NW  
Washington, DC 20006  
(202) 263-3261

Attorneys for Consolidated Rail Corporation

Dated: April 24, 2006

CERTIFICATE OF SERVICE

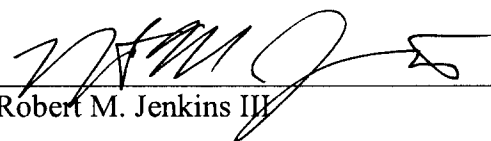
I hereby certify that on April 24, 2006, I caused a copy of the foregoing Reply Statement to be served by hand-delivery or overnight courier on:

Charles H. Montange  
Attorney for Petitioners  
City of Jersey City,  
Rails to Trails Conservancy,  
PRR Harsimus Stem Embankment  
Preservation Coalition,  
and Assemblyman Louis M. Manzo  
426 NW 162d St.  
Seattle, WA 98177  
(206) 546-1936

Carmine R. Alampi  
1 University Plaza (Ste. 404)  
Hackensack, NJ 07601  
(201) 343-4600

Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1920 N Street, NW (8<sup>th</sup> Fl.)  
Washington, DC 20036-1601  
(202) 263-4152

Attorneys for 212 Marin Boulevard, L.L.C., et al.

  
Robert M. Jenkins III

VERIFIED STATEMENT OF  
ROBERT W. RYAN

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 34818**

**CITY OF JERSEY CITY, RAILS TO TRAILS CONSERVANCY,  
PENNSYLVANIA RAILROAD HARSIMUS STEM EMBANKMENT  
PRESERVATION COALITION, AND NEW JERSEY STATE ASSEMBLYMAN  
LOUIS M. MANZO—PETITION FOR DECLARATORY ORDER**

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**VERIFIED STATEMENT  
OF  
ROBERT W. RYAN**

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**Introduction**

1. My name is Robert W. Ryan. I am Director, Real Estate, Consolidated Rail Corporation, 405 Division Street, Suite 215, Elizabeth, NJ 07201. I began working for the Pennsylvania Railroad in January, 1965 in the Real Estate Department. I joined the Real Estate Department of Consolidated Rail Corporation ("Conrail") soon after its formation. Except for three years in the Navy and four years attending college (University of New Haven, B.S. Economics, 1975), I have worked my entire career on Pennsylvania Railroad, Penn Central Railroad, and Conrail real estate matters. Since joining Conrail at its inception, I have had extensive experience and increasing levels of responsibility for managing Conrail's property holdings across its system, including sales in the area of Jersey City, New Jersey, and the properties in and around Harsimus Cove and the Harsimus Cove Yard.

2. Conrail was formed in the mid-1970s from the remains of a number of bankrupt northeastern railroads. It began operations on April 1, 1976. Along with a number of other rail yards, Conrail acquired portions of the Harsimus Cove Yard and the elevated lead (the “embankment lead”) into that yard. From the beginning, the Harsimus Cove Yard and embankment lead served only a switching function for a handful of shippers, as well as providing storage and turnaround space for cars and trains. For operating purposes, Conrail at the outset designated “CP Waldo”—which is west of the point where the embankment lead split off into the Harsimus Cove Yard—as Milepost 0 for the branch line serving the area. That branch line ran westward from Milepost 0 to connections with other lines on Conrail’s system.

3. The already small number of shippers switched out of the Harsimus Cove Yard had either gone out of business or moved away by the mid-1980s. They were encouraged to do so in significant part by the City of Jersey City and the Jersey City Redevelopment Agency, which wanted to see the tracks removed and the property redeveloped. Conrail worked with the City to remove the tracks and sell off various parcels to the Redevelopment Agency and to private developers. Over time, almost 90% of the acreage was sold off in a half dozen different transactions. All that remained by the late 1990s was the embankment lead property—which, at the City’s urging, had years before been stripped of all of its rail infrastructure. Conrail first negotiated to sell the property to the City. When the City expressed no interest in pursuing those negotiations, Conrail put the property up for bid. The City and the Redevelopment Agency decided not to bid on the property. In July 2005, Conrail sold the property to entities created by a private developer, SLH Holding Co., LLC, which was the only bidder that had met Conrail’s minimum bid requirements.

4. Throughout the entire process of Conrail's disposition of the various properties in the Harsimus Cove Yard area, neither the City nor anyone else claimed that Conrail needed to seek abandonment authority from the Interstate Commerce Commission (ICC) or the Surface Transportation Board (STB) to dispose of these properties. Conrail always treated these yard properties as subject to liquidation without federal regulatory approval. Now, as I understand it, the City is claiming in this case that the embankment lead is a "line of railroad" that cannot be liquidated without STB abandonment authority. The City argues that the United States Railway Association ("USRA") in the Final System Plan ("FSP") intended to convey the embankment lead and yard track as a "line of railroad." Alternatively, regardless of whether the property was conveyed as a "line of railroad," the City argues that it should still be considered a "line of railroad" because a railroad is not permitted to "downgrade" track that at any point in its prior history had been a "line of railroad." I address each of these contentions below. I also discuss the City's long-standing efforts to have Conrail sell off all of the Harsimus Cove Yard properties for development, and the City's specific actions with respect to the embankment lead.

#### **The Nature of the FSP Transfers to Conrail**

5. In the late 1960s and early 1970s many of the major railroads operating in the Northeastern United States declared bankruptcy. Congress responded to the resulting rail transportation crisis by creating USRA and tasking it with deciding which of the rail properties belonging to the bankrupt railroads should be acquired by a new entity, Conrail, which would build a new rail system out of the pieces of the bankrupt railroads that USRA designated in the FSP. USRA first prepared a Preliminary System Plan ("PSP") discussing its preliminary views regarding lines that should or should not be acquired by Conrail, and then in the FSP specified the lines that were to be acquired by ("designated to") Conrail. The FSP provided that yards

associated with rail lines designated to Conrail would transfer automatically with those lines, unless the FSP provided otherwise. (Exh. C at 261.)

6. The FSP line designation relied on by the City in this case is one of a number from the United New Jersey Railroad and Canal Company ("UNJRCC"), which had leased its lines years before to the Pennsylvania Railroad. Under the heading "TRANSFEROR: UNITED N. J. R. R. & CANAL CO.," the FSP provides for the transfer to Conrail of Line Code 1420, Jersey City to Harrison, Mileposts 1 to 7, the "Harsimus Branch." (Exh. C at 272.) The City argues that this designation must refer, at least in part, to the Harsimus Yard and embankment lead. (Opening Statement at 14-16.)

7. It is immediately apparent from the designation in the FSP that the "Harsimus Branch," which extends for six miles, cannot be synonymous with the Harsimus Cove Yard track and embankment lead. Altogether, that track never extended further than approximately one and one-half miles, east to west, from the bulkheads on the Hudson River to the switch onto the UNJRCC main line near CP Waldo. (Exh. E.) Accordingly, the City argues that USRA in the FSP intended to transfer the Harsimus Cove Yard track and embankment lead as the first part of a UNJRCC line extending from Harsimus Cove to Henderson. The City relies on track charts showing the track in the area designated as Line Code 1420, including the Harsimus Cove Yard track and embankment lead, to support its argument. (Opening Statement at 17-18, Appendix IX.) There are several problems with the City's position.

8. First, Line Code 1420 refers to a complex of trackage in the Harsimus Cove area centered around the old UNJRCC main line that ran from the bulkhead on the Hudson River in Harsimus Cove to the intersection with the old New York Bay Railroad near Harrison (which continued from there as Line Code 1421, the "Passaic Branch"). The valuation maps that were

attached to the deed transferring the line make this clear. (Exhs. BB and CC.) The old UNJRCC main line is shown on six valuation maps—all designated as V-2.1 and Line Code 1420, beginning with number ST-1 at the bulkhead on the Hudson River and running through ST-6 to the “cut” with Line Code 1421. (Exh. BB.) Line Code 1420 also included the sidetracks, running tracks, spurs, yard tracks, leads, and other ancillary trackage associated with the old UNJRCC main line. However, the Harsimus Cove Yard track and embankment lead were set forth on separate valuation maps, designated as V 1.01, ST-1 and ST-2. (Exh. CC.)<sup>1</sup> There is no doubt that the Harsimus Cove Yard property and tracks (to the extent the tracks still existed) transferred to Conrail, but USRA’s intention appears to have been to transfer this property as property ancillary to the old UNJRCC main line.

9. It also bears emphasizing that while the separate valuation maps for V-1.01, ST-1 and ST-2, do not show milepost numbers, they do show station and bridge numbers that start at Waldo Avenue (CP Waldo), which is designated 0+0, and move eastward toward the Hudson River. The bridge numbers move upward as they move eastward, from U.G. Br. No. 0.15 near Waldo Avenue to U.G. Br. No. 0.88 at Henderson Street. (Exh. CC.) The station numbers also move upward as they move eastward, from 0+0 at CP Waldo to 52+80 east of Henderson Street (the “cut” point between ST-1 and ST-2) to 78+03 at the bulkhead on the Hudson River. (Exh. CC.) These station numbers are used as locators on the lower right-hand corner of ST-1 and ST-2. (Exh. CC.) The fact that the station numbers and the bridge numbers move upward from CP Waldo shows that the embankment lead and Harsimus Cove Yard track shown on these two valuation maps were regarded as separate track from the UNJRCC main line shown on V-2.1,

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<sup>1</sup> For the reasons discussed in the Verified Statement of Victor Hand, submitted by the Intervenor, V 1.01 map ST-1 was not attached to the deed transferring Line Code 1420. For the Board’s convenience, we have reproduced that map from Conrail’s files and included it with the other relevant valuation maps.



ST-1 to ST-6. They also show that the City's effort to assign mileposts to this track running from east to west is not only wrong directionally, but also wrong numerically. Station 52+80 marks 5280 feet (one mile) eastward from CP Waldo, and Station 78+03 marks 7803 feet (1.48 miles) eastward from CP Waldo. If the old "Harsimus Branch" had milepost numbers, this is what they would be. And the bridge numbers confirm this reading of the valuation maps. The bridge numbers correspond to fractions of a mile from CP Waldo. Thus, U.G. Br. No. 0.88 at Henderson Street marks 0.88 miles from CP Waldo, which is exactly where it should be in relation to Station 52+80 (Milepost 1), just east of Henderson Street. (Exh. CC.)

10. The track charts relied on by the City actually support Conrail's position. Those track charts are both Penn Central track charts and early (pre-1982) Conrail track charts. (Citing Appendix IX.) They show Milepost 1 as the bulkhead on the west bank of the Hudson River, which is consistent with a convention followed originally by the Pennsylvania Railroad. (Under this convention, Milepost 0 was New York City's Pennsylvania Station.) The early Conrail track charts followed this same convention, and the entirety of the property encompassed by Line Code 1420, including the old UNJRCC main line property, is shown on those charts. (Exh. E.) The City cannot credibly claim that, simply because the Harsimus Cove Yard track and embankment lead are included among the lines on that track chart, USRA must have intended to transfer that particular track as a "line of railroad." More importantly, the "U.G." bridge numbers on the track charts, which move upward west to east, are the same numbers that appear on the valuation maps. (Citing Appendix IX; Conrail Exh. E.) The City cannot credibly claim that the track charts support its view that mileposts on the old "Harsimus Branch" moved east to west when the track charts show separate mile measurements for that track that move west to east. The proper reading of the charts is that Milepost 1 was the beginning of the old UNJRCC

main line at the bulkhead on the Hudson River, and that the mileposts moved westward on that line through CP Waldo and on to Harrison. This is supported by the fact that the track charts show bridge numbers starting at 2.54 in CP Waldo and moving upward from there toward Harrison. (Citing Appendix IX; Conrail Exh. E.) The City's effort to use 2.54 as the mile marker for the supposed continuation of the old "Harsimus Branch" has it exactly backward. The 2.54 designation measures the distance to CP Waldo from the Hudson River (Milepost 1) along the old UNJRCC main line.

11. Further support for this reading of the FSP is proved by the "Exceptions and Additions" to the FSP, which spelled out that some yards belonging to the transferring railroads were not transferred to Conrail, and some yards were transferred in part. The Harsimus Cove Yard was among those that was transferred in part. (Exh. C at 262.) Nothing in the Exceptions and Additions referred to the Harsimus Cove Yard or the embankment lead into the Yard as part of the "Harsimus Branch" line specified in the FSP. It was simply one of a number of yards that were transferred to Conrail as ancillary facilities.

12. Thus, I believe that the City's witness John J. Curley is wrong when he concludes that USRA in the deed by which Conrail acquired the "line of railroad described herein" and "identified as Line Code 1420" intended to convey the Harsimus Cove Yard and embankment lead as a "line of railroad." Curley VS at 4-5. The heart of Line Code 1420 was the old UNJRCC main line, which is evident from the valuation maps attached to and incorporated in the deed. (Exhs. BB and CC.) As recited in the deed, that line "originates in the County at Harsimus Cove, passes through Journal Square, and terminates in the County near the junction with the Penn Central New York-Philadelphia Main Line, west of the New Jersey Turnpike Overhead Bridge." (Exh. AA at A-2.) The Harsimus Cove Yard and embankment lead, as well

as all of the other auxiliary track and structures associated with the line, were also included in Line Code 1420, and were also conveyed to Conrail as part of the deed. But that certainly does not demonstrate that USRA intended to convey the Harsimus Cove Yard as a “line of railroad,” or as a segment of a “line of railroad,” any more than USRA intended in the FSP to convey the numerous other yards and auxiliary track that were not specifically excluded from the various conveyances as “lines of railroad” or segments of “lines of railroad.”

13. Further evidence that USRA could not have intended to transfer the Harsimus Cove Yard track and embankment lead as a “line of railroad” is provided by a Conrail Timetable, originally dated May 19, 1974, that set forth the various branch lines that would constitute Conrail’s New Jersey Division. (Exh. A.) The “Passaic and Harsimus Branch” was the “line of railroad” that Conrail created out of the track contained in Line Codes 1420 and 1421, and which Conrail began operating on April 1, 1976. It began at CP Waldo, west of the embankment lead and Harsimus Cove Yard track, and continued westward to Lane. (Exh. A at 17.) Neither the embankment lead nor the remnants of the Harsimus Cove Yard track and the old UNJRCC main track east of CP Waldo was included in the Passaic and Harsimus Line. CP Waldo was designated for operating purposes as milepost 0.0—the end of the line. In General Order No. 1, effective April 1, 1976, Conrail reiterated that the Passaic and Harsimus Branch ran “between CP Waldo (MP 0.0) and Lane (MP 9.3).” (Exh. D at 1.) The embankment lead and Harsimus Cove Yard track were not part of the line. Thus, from Day One, the embankment lead and Harsimus Cove Yard track were not a “line of railroad,” or a segment of a “line of railroad” on Conrail’s system, and they were never planned to be.

14. Although the track charts that Conrail inherited from the Penn Central continued to reflect the old Pennsylvania mileposts for the first few years of Conrail’s existence, they were

soon modified to reflect the fact that the Passaic and Harsimus Branch “line of railroad,” which Conrail had operated from its inception between Jersey City and Lane, began at CP Waldo. Conrail’s 1982 track charts show the Passaic and Harsimus Branch beginning a Milepost 0.0 at CP Waldo. (Exh. F.) None of the trackage east of CP Waldo, including the embankment lead and Harsimus Cove Yard track, appears on the track charts after that point. (Exh. F.) This does not mean that there was no switching activity or other yard work done on those tracks. At that point (1982) a small portion of the trackage was still used for switching a few shippers in the area and for storage and turnaround operations. But that trackage was treated, as it had been from the beginning of Conrail’s existence, as nothing but yard and switching track. (Conrail’s “ZTS” maps also showed the Passaic and Harsimus Line as Track 211, with the “Harsimus Cove Elevation” shown as separate Track 215. (Exh. DD.) Clearly, Conrail always treated the embankment lead and Harsimus Cove Yard track as separate from and auxiliary to the “line of railroad” that served the area.

### **The Nature of Conrail’s Start-Up**

15. As I understand it, the City argues in this case that, regardless of what Conrail used the Harsimus Cove Yard track for, it could not “downgrade” that track from whatever status it had years before on the UNJRCC or the Pennsylvania Railroad. The City’s implicit assumption appears to be that Conrail was (and is) a “successor” to those railroads, and that it was required to treat properties it received the same as any other railroad that purchased another railroad or its property. Conrail is not, however, a “successor” to the multitude of railroads whose properties were winnowed by USRA to put together an entirely new rail system. Conrail started from scratch. This is not a case like those cited by the City for the proposition that a railroad may not downgrade a line from a “line of railroad” to a “spur” and then abandon it without seeking STB

approval. (Opening Statement at 23.) Conrail did not “downgrade” the status of the embankment lead or what remained of the rest of the Harsimus Cove Yard track. That trackage was already “downgraded” long before Conrail began its operations.

16. The City makes much of the “Highline” case, in which the ICC determined that Conrail’s line in lower Manhattan remained a line of railroad, although it had not carried any traffic for 15 years, because it had historically carried substantial traffic. (Opening Statement at 29-30.) What the City ignores, however, is that the Highline was transferred to Conrail as a line of railroad by USRA in the FSP, and Conrail never took the position that it could abandon that line without ICC or STB authorization. The Preliminary System Plan examined at some length the question of whether the Highline should be transferred to Conrail. USRA’s recommendation, in light of projections of close to 30,000 carloads per year of traffic and New York City’s support for the transfer, was that the “30<sup>th</sup> Street Branch” should be transferred to Conrail. (Exh. B at 639.) The FSP adopted that recommendation and transferred the line to Conrail as a line of railroad. (Exh. C at 281.) Despite repeated efforts by the City of New York and developers to have Conrail tear down the track, Conrail consistently refused to do so absent abandonment authorization from the ICC or STB. In contrast, in this case, Conrail consistently cooperated with requests by the City and local developers to tear down the tracks and sell off, parcel by parcel, the Embankment lead and Harsimus Cove Yard tracks. At no point did Conrail or the City take the position that any authorization was required from the ICC or the STB for such abandonment.

#### **The City’s Development Efforts**

17. Even before Conrail began operations in the Jersey City area, the City had begun redevelopment efforts designed to replace the few remaining industrial operations in the

Harsimus Cove area with office buildings, real estate complexes, and other high-end commercial developments. As noted earlier, the FSP did not convey all of the Harsimus Cove Yard property to Conrail, and what was not conveyed was retained by the trustees in bankruptcy of the railroads that owned the property for development purposes. The City adopted detailed redevelopment plans for the area and the Jersey City Redevelopment Agency condemned some properties that were not in active rail service. When Conrail took over rail operations in the area, the City and Redevelopment Agency began working with Conrail to have it sell off additional parcels, and by the mid-1980s Conrail had sold off most of the Harsimus Cove Yard track to several developers, as well as the Redevelopment Agency. Conrail did not seek, and no one suggested it should seek, authorization from the ICC to sell off this track or the underlying property. Conrail only retained easements where it was necessary to be able to switch the few remaining shippers in the area.

18. The City was still not satisfied with the pace of redevelopment. In December 1984, the Mayor of Jersey City wrote the Chairman of Conrail acknowledging that Conrail had "sold several surplus parcels to facilitate Jersey City's waterfront development activities" but complaining that "underutilized railroad property and trackage which services the remaining industrial facilities has become an impediment to the redevelopment of entire development tracks along the Hudson River." (Exh. G.) Conrail continued to juggle the needs of the few remaining shippers and the City's redevelopment objectives until the last shipper left the area in the late 1980s. At that point, the only impediment to selling off the last significant remaining piece of property, the embankment lead, was that Conrail still used part of it to provide turnaround space for trains moving to one of its customers in Kearny, New Jersey. When the City began to dun Conrail to tear down the tracks, Conrail in 1989 agreed to dismantle the track and sell the

property once it had completed a track connection west of CP Waldo (the “Marion Connection”) that would eliminate the need to use the embankment lead for turnaround space. In the interim, Conrail agreed to work with the City to dismantle the tracks and bridges on the lead that were not needed for the turnaround operation. (Exh. H.)

19. Conrail budget constraints delayed the demolition of the unused bridges and tracks on the embankment lead. In 1994, the City itself—in a joint venture with a developer, National Bulk Carriers, Inc., that had earlier bought a large block of property from Conrail east of Henderson Street—demolished and removed the bridge that spanned Henderson Street. (Exh. J.) Having finally completed the Marion Connection, Conrail also in 1994 began to make plans for demolishing the remaining infrastructure on the embankment lead and selling off the property.

20. During none of this time did the City, the Redevelopment Agency, or anyone else dealing with Conrail suggest that abandonment authorization from the ICC was required for Conrail to demolish and sell off the line. The City in its opening statement here attempts to argue from handwritten notes taken by a City engineer of two conversations in 1994 with Conrail engineers that the City had reason to believe that Conrail had sought and obtained abandonment authorization from the ICC. (Opening Statement at 9, 33.) But those notes in fact demonstrate exactly the opposite. In the first, dated March 29, 1994, the Conrail engineer reportedly told the City engineer that “[i]f it is a stub or branch line abandonment, it doesn’t need approval [from the ICC].” (City Appendix II.) In the second, dated June 13, 1994, the Conrail engineer reportedly told the City engineer that “the demolition project for the 6<sup>th</sup> St. bridges is currently out to bid” and that once bids were received “Conrail will file an IFE? to retire the track.” (City Appendix II.) Counsel for the City suggests that “the term ‘IFE?’ makes sense only if understood to refer to ‘ICC’” (Opening Statement at 9), but anyone familiar with railroad

demolition or construction projects knows that what the Conrail engineer was talking about was an "AFE" or "Authorization for Expenditure." Until the bids came back, the Conrail engineers could not file an AFE with their superiors to get budget authorization for the demolition project. Obviously, that does not suggest that Conrail had determined that abandonment authorization from the ICC was necessary for Conrail to liquidate the property. On the contrary, it shows that no intermediate regulatory step was required for Conrail to proceed.

21. The City also asserts that "[t]he National Bulk Carriers project manager has reiterated numerous times to the City's legal representatives that he always believed Conrail obtained an abandonment authorization for the Harsimus Cove portion of the Harsimus Branch (i.e., MP 1.3 to end of line at MP 1.0)." (Opening Statement at 10 n.15, 36.) But that assertion is belied by a letter from National Bulk Carriers to Conrail dated March 30, 1994, which National Bulk Carriers faxed to the City in April 1994, which the City still has in its files, and which Conrail obtained from the City in discovery. (Exh. I.) In that letter, the President of National Bulk Carriers reminds Conrail that when the Marion Junction project was complete, the easement Conrail had retained through National Bulk Carriers' property could be extinguished. Further, he observes, "our counsel advise that no ICC approval of the abandonment is required." (Exh. I.) It is impossible to credit any supposed "belief" by the National Bulk Carrier project manager that Conrail obtained abandonment authorization for this or any other Harsimus Cove property when National Bulk Carrier's own President expressly recognized that no ICC approval was required.

22. Conrail also turned over to the City in discovery a listing of "Spur Decisions Made by [Conrail] Law Department." (Exh. FF.) It shows that from Milepost 0 (CP Waldo) eastward to Milepost 1.36 (which was all the track left at that point of the embankment lead and yard



track) the law department had confirmed in April 1994 that the "Harsimus Br." track as a legal matter was spur track. (Exh. FF.) That is the same conclusion that was reached in 1994 by counsel for National Bulk Carriers. Particularly in light of these coincident determinations, it is highly unlikely that anyone at Conrail gave anyone at the City reason to believe that Conrail required ICC authorization in order to proceed with demolishing the rail infrastructure and selling off the property.

23. Removing the remaining track and bridges constituting the embankment lead was an expensive project, and Conrail did not complete it until 1997. The City repeatedly pressed Conrail to finish the job and begin negotiations for sale of the underlying property. In anticipation of redevelopment of the property the City in 1977 authorized the Jersey City Planning Board to conduct a redevelopment study, which the Planning Board Completed in March 1998. (Exh. L.) This was followed in July 1999 by an exhaustive study prepared for the City by Louis Berger & Associates, Inc., in association with Li-Saltzman Architects, P.C., which laid out a number of redevelopment alternatives. (Exh. P.) At the same time, the Jersey City Redevelopment Agency was in active negotiations with Conrail to acquire the property for redevelopment. Pursuant to those negotiations, the Redevelopment Agency conducted extensive surveying, soil boring, demotion/clearance estimating, property appraisal, and other planning work, and held discussions with Conrail about the general terms of a sale of the property. (Exh. K.)

24. In the midst of these negotiations, a group of citizens petitioned the State of New Jersey to designate what was left of the embankment lead as an "historic place." The City and Conrail both opposed that designation, because it would restrict the City's ability to implement the development plans proposed in the Berger study. (Exhs. N and O.) Despite the City's strong

opposition, in 1999 the embankment lead was listed on the State Register of Historic Places. (Exh. Q.) After that, the City and the Redevelopment Agency stopped talking to Conrail about acquiring the property and moved on to other projects. Since the City and Redevelopment Agency were no longer interested in the property, Conrail in December 2001 notified numerous parties that it was putting the property up for bid. Conrail was careful to include the Redevelopment Agency among those receiving that notice, just in case the City or the Redevelopment Agency still had an interest in the property. (Exh. R.) Furthermore, when Conrail in October 2002 sent out the bid package to potentially interested parties, it again included the Redevelopment Agency. (Exh. S.) Conrail, however, received no bid from the City, the Redevelopment Agency, or any other governmental entity on the property.

25. Conrail was not surprised by the City's and Redevelopment Agency's lack of interest in the bid package, since they had made clear to us that they no longer had any interest in acquiring the property. In discovery, the City turned over a memorandum from the Redevelopment Agency to the City's Department of Housing, Economic Development, and Commerce ("HEDC"), dated October 28, 2002, regarding "6<sup>th</sup> Street Embankment (Conrail ROW)," that confirmed exactly what we believed at the time:

As mentioned in our Staff Meeting of this morning, attached for your information and perusal is the bid solicitation letter received from Conrail with regard to the above property. Minimum bid price is \$3,000,000. I know the JCRA is not interested in bidding on this property. I presume that the City has no interest either at this point but felt you should see the attached. Should you wish to see the balance of the package referred to in the letter, just let me know.

(Exh. T.)

26. In January 2003, the City Council of Jersey City proposed an ordinance to designate the embankment part of the embankment lead as an "historic landmark" under municipal law.

Conrail accordingly informed all of the prospective bidders on the property that if the ordinance were adopted, it would require a developer to obtain the consent of the Jersey City Historic Preservation Commission to proceed with development. (Exh. U.) The ordinance passed in January 2003.

27. Only one private developer, SLH Holding Co., LLC, submitted a bid that met Conrail's minimum requirements. Conrail accordingly began negotiations for a sale of the property to the individual companies created by SLH to purchase each of the eight parcels Conrail had offered. In October 2003, Conrail received a letter from the City proposing to "open up a dialogue" with Conrail to having a public entity acquire those parcels. (Exh. V.) By then, Conrail had been attempting to dispose of the embankment property since 1997 and had entered into a contract to sell to SLH Holding Co., LLC, as a result of the bidding process. It had already spent years in good faith negotiations with the City and the Jersey City Redevelopment Agency, which had ultimately determined not to bid on the property, and Conrail had agreed on a good faith bid from a private developer upon terms and for the amount it was seeking. Conrail determined to proceed with its contract with SLH, while remaining open to any concrete proposals from other entities in the event the contracted sale was not completed.

28. Conrail never received any concrete proposals from other entities. What it received instead were periodic overtures to meet to talk about the possibility of the City or some other public entity acquiring the property instead of Conrail selling the property to the only bidder that had met Conrail's terms. Conrail in fact did sit down on March 16, 2004, with the Mayor and other representatives of the City, as well as representatives of the Embankment Coalition, to discuss their interest in the property. Conrail was represented by me and John Fiorilla, counsel to Conrail. The City suggests that at that meeting Mr. Fiorilla and I told the City that it could not

condemn Conrail's embankment property, because "City use of eminent domain was preempted." (Opening Statement at 33.) The City attached to its original Petition for a Declaratory Order a statement by an Embankment Coalition representative, Andrew Strauss, which the City argues supports its position. (Petition, Exh. D.)

29. Mr. Fiorilla and I said no such thing, and there is nothing in Mr. Strauss's notes of the meeting, which are attached to his statement, that supports Mr. Strauss's statement. There is no possibility that we could have suggested that the embankment property could not be condemned, because we are both well-versed in railroad property law, and we both knew full well that once spur property has been removed from rail service, it can be condemned under state law. Any doubt about whether the embankment property had been removed from rail service was erased when Conrail years earlier removed the track and tore down the bridges that made rail service possible. To the extent the meeting raised an issue about condemnation, it was whether the City could condemn the property from Conrail or must condemn it from SLH—because, as Mr. Strauss's own notes reflect, we advised the City that Conrail had a "legally binding" obligation to SLH's owner, "[Steven] Hyman," to negotiate a sale of the property in good faith. (Petition, Exh. D.)

30. Curiously, at the same time the City asserts it was misled by Conrail into thinking that the City could not acquire the property by eminent domain, the City notes that it adopted an ordinance in September 2004 declaring that the property was needed for public use, and that it hired a eminent domain lawyer, John Curley, to pursue acquisition of the property. (Opening Statement at 37-38, Curley VS at 2.) The City says that he "put Conrail on notice by letter dated February 18, 2005," of the City's desire to acquire the property and asserts that Conrail in July 2005 "closed its transaction with the developer while denying the City's experts access to the

property to complete an appraisal.” (Opening Statement at 38.) But Conrail never denied the City access to the property. The City had multiple opportunities for access to the property—and actual access to the property for appraisers, urban planners, environmental experts, surveyors, and architects—over the preceding eight years, and Conrail was always cooperative. The City’s desire for access to the property earlier in July 2005 was inconvenient for Conrail because Conrail was moving offices. (Exh. Z.)

31. Moreover, it would have made no difference if the City had had access to the property earlier in July. Conrail had put the property out for bid in October 2002 and had been working with SLH since it submitted its conforming bid to close the sale in 2003. Conrail never represented to the City or anyone else that it would, or could, hold up the sale to SLH while the City, once again, considered whether to acquire the property. If and when the City decided to exercise its eminent domain power, it could exercise it against either Conrail or SLH—whichever owned the property at the time. Conrail had already gone out of its way to negotiate with the City and the Jersey City Redevelopment Agency at length, beginning in 1997, about acquiring the property. When Conrail finally put the property up for bid, the City and the Redevelopment Agency had no interest. Conrail cannot fairly be criticized for proceeding to sell the property to the only bidder that met its minimum bid conditions.

32. Finally, the City claims that Assemblyman Manzo inquired of the New Jersey Department of Transportation whether they had received notice of an abandonment relating to the branch and that by letter dated March 1, 2006, the Department responded that it was required to receive such notices, but had not. (Opening Statement at 3 n.5.) If that is what the Department said, it is mistaken. I sent a detailed letter to Mr. Thomas M. Scholtis of the Department of Transportation on April 12, 2005, explaining in considerable detail Conrail’s plan

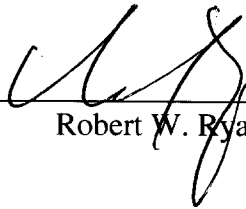
to sell the property at issue to SLH Holding Corp. and requesting waiver of the formal state regulatory filing and publication requirements governing sales affecting railroad property. (Exh. W.) I received back a letter dated June 10, 2005, from James L. Badgley of the Department of Transportation, confirming that it had reviewed Conrail's request that that "NJDOT has no regulatory interest in this transaction as it pertains to rail freight movement." (Exh. Y.) In short, contrary to the City's representation, the Department was given thorough and timely notice and determined that it had no interest in the transaction.

**Verification**

I, Robert W. Ryan, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this statement.

Executed on April 17, 2006.

  
\_\_\_\_\_  
Robert W. Ryan

VERIFIED STATEMENT OF  
JOHN K. FIORILLA



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 34818**

**CITY OF JERSEY CITY, RAILS TO TRAILS CONSERVANCY,  
PENNSYLVANIA RAILROAD HARSIMUS STEM EMBANKMENT  
PRESERVATION COALITION, AND NEW JERSEY STATE ASSEMBLYMAN  
LOUIS M. MANZO—PETITION FOR DECLARATORY ORDER**

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**VERIFIED STATEMENT  
OF  
JOHN K. FIORILLA**

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1. My name is John K. Fiorilla. I am an attorney at law of the State of New Jersey, admitted to the bar of that state in June 1975. My primary area of practice is railroad regulation and property law. I have been counsel to Conrail regarding its sale of the Jersey City Embankment since 2002, and I currently represent Conrail in the New Jersey Superior Court proceedings that have been held in abeyance pending the Surface Transportation Board's decision in this declaratory order proceeding.

2. I have been asked here to comment on certain assertions made by the City of Jersey City's STB counsel and a representative of the Embankment Coalition regarding a meeting on March 16, 2004, between representatives of Conrail and representatives of the City and the Embankment Coalition. I have also been asked to comment on certain assertions made by the City's STB counsel and the City's eminent domain counsel regarding Conrail's 2005 dealings with the City concerning the City's renewed interest in acquiring the Embankment.

3. In both its Petition for a Declaratory Order, filed January 12, 2006, and its Opening Statement, filed March 10, 2006, the City claims that "Conrail" took the position at a meeting on March 16, 2004, with the City and the Embankment Coalition that "City use of eminent domain [regarding the Embankment] was preempted." Opening Statement at 33; Petition at 13. The City attached to its Petition the Verified Statement of Andrew Strauss, a representative of the Embankment Coalition, who says that "Conrail" took that position. (Petition, Exh. D.) Robert Ryan and I were Conrail's representatives at that meeting, and neither of us made any such statement or took any such position. Mr. Strauss attaches his notes of the meeting, and there is nothing in his notes that support this assertion. His notes do reflect the fact that Conrail at that point had a "legally binding" commitment to the owner of SLH Holdings, Inc. LLC, Stephen Hyman, to negotiate in good faith regarding the sale of the Embankment property. (Petition, Exh. D.) SLH Holdings was the only bidder on the property that met Conrail's minimum requirements. The Jersey City Redevelopment Agency had been invited to bid, but had not done so. If there was any issue of eminent domain at the meeting, it would likely have revolved around the question of whether Conrail or SLH would be the subject of eminent domain, if and when the City decided to initiate condemnation proceedings.

4. The City did, in fact, hire an eminent domain lawyer, John Curley, who first made contact with me about the City acquiring the Embankment property in early 2005. We exchanged letters about the City's interest, and on June 7, 2005 he sent me a letter asking to set up a time for the City to conduct appraisal inspections. (Exh. X.) I responded on June 17, 2005, and specifically advised Mr. Curley that SLH had an option to purchase the property and noted that "that option includes enhanced authority regarding condemnation, zoning, and development approval." (Exh. Z at 1.) I also in that letter gave him the names of SLH's attorneys. The City

had long been aware of SLH's contractual rights in the property, and my letter could not have made clearer that Conrail intended to honor its obligations to SLH. In fact, SLH's attorneys were cc'd on the letter. (Exh. Z at 2.) Mr. Curley had asked about the regulatory status of the Embankment property, and I informed him in that letter that Conrail had abandoned the property in 1994, and that there was no requirement under federal law for approval of that abandonment from the ICC (now STB). (Exh. Z at 2.) Finally, I suggested that the date for any appraisal inspections and examination of valuation maps be set up after July 15, because Conrail was in the process of moving its real estate offices. (Exh. Z at 1.)

5. Thus, Mr. Curley's complaint in his statement that Conrail did not cooperate with the City is flatly wrong. (Curley VS at 3.) Conrail could not have been more cooperative with the City. As Mr. Ryan's accompanying Verified Statement for Conrail describes in some detail, Conrail first offered the Embankment property for sale to the Jersey City Redevelopment Agency in 1997, and cooperated at great length in giving access to the property for surveying, appraisal, architectural studies, and other development purposes. Eventually, the Redevelopment Agency and the City determined that they did not wish to purchase the property and Conrail put it out for bid. Neither the Redevelopment Agency nor the City responded either to Conrail's December 2001 bid notice or its October 2002 bid package. Their own internal memoranda make it quite clear, as Conrail understood, that they advertently decided not to bid. (Exh. T.) Having been turned down by the Redevelopment Agency and the City, Conrail can hardly be faulted for accepting the offer of the only bidder, SLH, that met its minimum requirements.

6. Nor can Conrail be faulted for proceeding to close the sale with the entities that SLH formed for purposes of acquiring the parcels that Conrail had put up for bid, some three and one-half years after Conrail had put the property up for bid. Mr. Curley was fully aware that SLH

had a right to acquire the property, and the City's long-delayed interest in possibly acquiring the property by eminent domain provided no grounds for Conrail not to proceed with the sale.

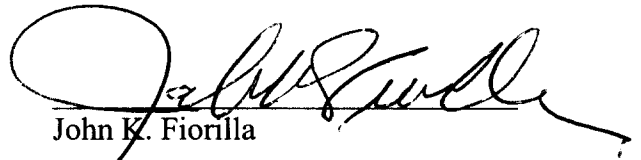
Conrail's sale of the property does not evade the City's eminent domain rights. The City has the same right to condemn the property (if it ever gets around to exercising that right) in the hands of a developer as in Conrail's hands.

**Verification**

I, John K. Fiorilla, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this statement.

Executed on April 15, 2006

  
John K. Fiorilla

## EXHIBITS

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 34818**

**CITY OF JERSEY CITY, RAILS TO TRAILS CONSERVANCY,  
PENNSYLVANIA RAILROAD HARSIMUS STEM EMBANKMENT  
PRESERVATION COALITION, AND NEW JERSEY STATE ASSEMBLYMAN  
LOUIS M. MANZO—PETITION FOR DECLARATORY ORDER**

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**EXHIBITS TO REPLY STATEMENT  
OF  
CONSOLIDATED RAIL CORPORATION**

Exh. A	Excerpts from May 19, 1974 Conrail Timetable No. 11
Exh. B	Excerpts from February 26, 1975 Preliminary System Plan
Exh. C	Excerpts from July 26, 1975 Final System Plan
Exh. D	Excerpts from April 1, 1976 Conrail General Order No. 1
Exh. E	1977 Conrail Track Chart
Exh. F	1982 Conrail Track Chart
Exh. G	December 18, 1984 Letter from McCann to Crane
Exh. H	July 28, 1989 Letter from Morey to Barnes
Exh. I	March 30, 1994 Letter from McDermott to Cossel
Exh. J	April 5, 1995 Letter from Mucha to Cossel
Exh. K	October 29, 1997 Letter from Hamilton to Tracy
Exh. L	March 10, 1998 Planning Board Report
Exh. M	May 6, 1999 Letter from Guzzo to Schundler

Exh. N	June 4, 1999 Letter from O'Toole to Guzzo
Exh. O	July 7, 1999 Letter from Schundler to Hall
Exh. P	Excerpts from July 1999 Berger Study
Exh. Q	January 25, 2000 Letter from Guzzo to Conrail
Exh. R	December 21, 2001 Letter from Ryan to Killeen
Exh. S	October 24, 2002 Letter from Ryan to JCRA Executive Director
Exh. T	October 28, 2002 Memo from Netchert to Munley
Exh. U	January 13, 2003 Letter from Fiorilla to JCRA Executive Director
Exh. V	October 27, 2003 Letter from Cunningham to Ryan
Exh. W	April 12, 2005 Letter from Ryan to Scholtis
Exh. X	June 7, 2005 Letter from Curley to Fiorilla
Exh. Y	June 10, 2005 Letter from Badgley to Ryan
Exh. Z	June 17, 2005 Letter form Fiorilla to Curley
Exh. AA	Excerpts from Text of Deed from UNJRCC to Conrail
Exh. BB	Valuation Maps ST-1 through ST-6 (V-2.1)
Exh. CC	Valuation Maps ST-1 and ST-2 (V-1.01)
Exh. DD	Conrail "ZTS" Map of South Kearney Zone 17
Exh. EE	N.J.S.A. 48:12-125.1
Exh. FF	Chart of Spur Decisions by Conrail Law Department



A

# **CONSOLIDATED RAIL CORPORATION**

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## **TIMETABLE No. 11**

In effect 4.01 A.M., Eastern Standard Time  
Sunday, May 19, 1974

\* \* \*

## **EASTERN REGION**

**W. C. WIETERS**  
General Manager

**R. B. HOFFMAN**  
Asst. General Manager

**R. A. RUTLEDGE**  
Asst. General Manager—  
Passenger

**R. P. McFEATERS**  
Superintendent—Operations

**Division Superintendents:**

**L. B. Du PRAU**  
**F. I. DOEBBER**  
**A. G. LAGEMAN, III**  
**D. E. SCHAFER**

**Divisions:**

**PHILADELPHIA**  
**CHESAPEAKE**  
**HARRISBURG**  
**READING**

---

## **ATLANTIC REGION**

**D. A. SWANSON**  
General Manager

**G. T. DAILEY**  
Superintendent—Operations

**K. L. LOWE**  
Superintendent—New Jersey Division

\* \* \*

**FOR THE GOVERNMENT OF EMPLOYEES ONLY**

# PERTH AMBOY AND WOODBRIDGE BRANCH

(New Jersey Division)

Interlocking	Interlocking Station	Block Station and Train Order Office	STATIONS	Distance From Union	Sidings Assigned Direction, Car Capacity 50 ft. Cars			Note
					East or North	West or South	Both	
X	X	X-*	UNION.....	0.0				
			AVENEL.....	2.0				
			EDGAR.....	2.7				
			WOODBRIDGE.....	3.6				
X	X	X-*	WOOD (C.R.R.N.J.).....	5.8				
			PERTH AMBOY.....	5.9				
X	X	X-*	ESSAY (N.Y. & L.B.R.R. and South Amboy Secondary Track).....	8.1				

The direction from Union to Wood is westward.

# PASSAIC AND HARSIMUS BRANCH

(New Jersey Division)

X			CP WALDO (River Line).....	*0.0				
X	X	X-*	HACK (Movable Bridge).....	1.4				
			MEADOWS YARD.....					
X	X	X-*	KARNY (Movable Bridge).....	3.3				
		X	WA-5.....	7.7				
		X	WA-3.....	8.1				
		X	WA-6.....	9.2				
X	X	X-*	LANE.....	9.3				

The direction from CP Waldo to Lane is westward.

\*Distance from CP Waldo.

# GREENVILLE BRANCH

(New Jersey Division)

X	X	X-*	BAY (Movable Bridge).....	*0.0				
X	X	X-*	CY (C.R.R.N.J. Crossing).....	1.6				
			WA-2.....	3.5				
			WA-3.....	4.2				

The direction from Bay to WA-3 is westward.

\*Distance from Bay.

# CATSKILL MOUNTAIN BRANCH

(New Jersey Division)

			KINGSTON POINT.....	*0.0				
			KINGSTON YARD (River Line).....	2.9				
			WEST HURLEY.....	10.2				
			MT. PLEASANT.....	24.9				
			PHOENICIA.....	27.6				
			BIG INDIAN.....	36.4				
			GRAND HOTEL.....	41.5				13
			FLEISCHMANN'S.....	44.2				
			ARKVILLE.....	48.2				15
			ROXBURY.....	59.1				22
			GRAND GORGE.....	65.6				17
			STAMFORD.....	74.0				7
			HOBART.....	77.5				19
			SOUTH KORTRIGHT.....	81.6				11
			BLOOMVILLE.....	86.3				

The direction from Kingston Point to Bloomville is westward.

\*Distance from Kingston Point.

# WALKILL VALLEY BRANCH

(New Jersey Division)

			KINGSTON (River Line).....	*0.0				
			RESENDALE.....	8.1				
			NEW FALTZ.....	14.9				17
			GARDINER.....	20.7				21
			WALKILL.....	26.1				
			WALDEN.....	29.3				15
			MONTGOMERY.....	33.0				

The direction from Kingston to Montgomery is eastward.

\*Distance from Kingston.

B

The logo of the United States Railway Association, featuring a vertical line on the left and two horizontal lines intersecting it.

United States Railway Association

***Preliminary  
System Plan***

**Volume II**

### Information for Line Retention Decision

Revenue received by PC.....\$535,974  
Average revenue per carload.....\$336

### Variable (avoidable) cost of continued service:

Cost incurred on the branch line.....209,048  
Cost of upgrading branch line to FRA  
Class I (1/10 of total upgrading cost).....19,397  
Cost incurred beyond the branch line....372,591

Total variable (avoidable) cost.....601,036

Net contribution (loss): total.....(65,062)  
Average per carload.....(41)

This line would require upgrading to meet the requirements of the Federal Railroad Administration's minimum safety standards (Class I track, which has a maximum safe operating speed of 10 mph). Based on available information, this upgrading would include the replacement of a total of 1,400 crossties (an average of 100 crossties per mile).

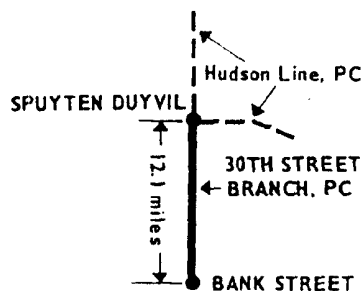
### Preliminary Recommendation

It is *not* recommended that this portion of the Auburn Branch be included in the ConRail System. Continued operation of this line would require a rail service continuation subsidy. Under 1973 traffic, revenue and cost levels, this line generates an annual excess financial burden amounting to \$65,062 or \$41 per carload. Recovery of costs would require approximately a 40 percent increase in traffic or a 12 percent rate increase over the 1973 levels. Costs may also be reduced by reducing frequency and this may make the line viable. Whether reduced frequency is a possible solution which would *not* result in a loss of revenue should be addressed in the RSPO hearings.

### 30TH STREET BRANCH

USRA Line No. 681

Penn Central



The 30th Street Branch, formerly part of the New York Central RR, extends from *Spuyten Duyvil* (Milepost 0.0) to *Bank Street* (New York), N.Y. (Milepost 12.1), a distance of 12.1 miles, in New York County,

N.Y. At *Spuyten Duyvil*, the line connects with the Hudson Line of the PC. This line was not described as potentially excess in the U.S. DOT Report (zone 58).

### Information Provided by RSPO, Shippers, Government Agencies

No specific information concerning this line was provided at the hearings conducted by the Rail Services Planning Office as reflected in their reports entitled "The Public Response to the Secretary of Transportation's Rail Service Report."

### Information for Line Retention Decision

This line was identified for study because of various operational problems, and a reported potential loss of traffic generated by the New York Times facilities which currently use this branch. Correspondence received from the Office of the Mayor of New York, indicates that the relocation of the Times' 60th Street printing press would reduce traffic by 3,500 annual carloads. Penn Central revenue would drop by \$2.3 million. However, according to the City, the remaining traffic would amount to 28,320 cars, and \$11.2 million in revenues. This traffic in turn amounts to 2,340 cars per mile, per year, and approximately \$926,000 in revenue per mile, per year. The average revenue for this retained traffic is approximately \$395 per carload. The City has plans underway to continue the development of the West Side Corridor, and has already committed funds for development on the expectation that the railroad branch will be available. Proposed non-rail redevelopment along this branch will still be possible if developed according to an air-rights concept.

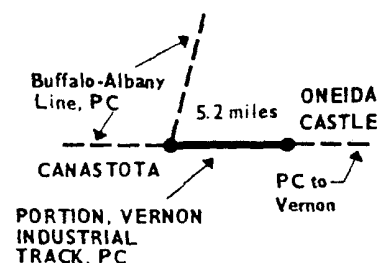
### Recommendation

It is recommended that the 30th Street Branch be included in the ConRail System.

### PORTION OF THE VERNON INDUSTRIAL TRACK

USRA Line No. 686

Penn Central



This portion of the Vernon Industrial Track, formerly part of the New York Central RR, extends from *Oneida Castle* (Milepost 252.5) to *Canastota*, N.Y.

C

ANNEX 2A

# United States Railway Association

SEP 11 1984

Associated Rail Corporation  
Two Commerce Square  
2001 Market Street  
Philadelphia, PA 19101-1416

## ***Final System Plan***

**Volume I**



**VOLUME I (Parts I and II)**

**United States Railway Association**

**FINAL SYSTEM PLAN**

**for restructuring**

**Railroads in the Northeast and Midwest Region**

**pursuant to the**

**REGIONAL RAIL REORGANIZATION ACT OF 1973**

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**JULY 26, 1975**

## SECTION A

# Designations to ConRail

The rail properties of railroads in reorganization or of railroads leased, operated or controlled by railroads in reorganization are designated for transfer to ConRail pursuant to section 206(c)(1)(A) in accordance with the *general designations* set forth below, subject to the *exceptions and additions* specified below:

### General Designations

**Rail Lines and Trackage Rights**—The Rail Lines Table at the end of this section provides the details as to the designations of rail line and trackage right transfers to ConRail by each transferor. Rail line transfers are indicated in the "interest" column of the table as "line to CRC". Where "line to CRC" designations are made, all of the transferor's right, title and interest are transferred. Trackage right transfers are indicated in the "interest" column of the table as "TR to CRC". Under such designations only operating rights over the transferor's lines are transferred to ConRail with the balance of the right, title and interest transferred to others. In the other designations in this section, the transfer of some rail properties depends on an association with, or location along transferred rail lines. Such designations apply, except as specifically noted, only to transferred rail lines, and not to transferred trackage rights.

#### Yards—

- Transferors' interest in all freight yards associated with rail lines designated to ConRail, except for those yards offered to profitable railroads.
- Leasehold, occupancy and access rights which are necessary to the operation of present Amtrak services in all yards associated with rail lines designated to ConRail.
- An option (described in Chapter 8) to purchase or lease all or less of Transferors' remaining interest in all passenger yards associated with rail lines in which ConRail is designated an interest.

**Facilities** (including ore and coal wharves, intermodal terminals service and maintenance facilities such as shops, shop machinery, enginehouses, fuel stations and roadway buildings)—

- Transferors' interest in all freight facilities associated with rail lines or yards or portions thereof designated to ConRail, except for such facilities offered to profitable railroads.
- Leasehold, occupancy and access rights in all passenger related facilities necessary to the operation of present Amtrak services and associated with rail lines designated to ConRail.
- An option (described in Chapter 8) to purchase or lease all or less of Transferors' remaining interest in all passenger related facilities associated with rail lines in which ConRail is designated an interest.

#### Stations and Structures—

- Transferors' interest in freight related structures associated with a yard or portion thereof designated to ConRail from Transferor.
- Leasehold, occupancy and access rights necessary to the operation of present Amtrak services in stations and other passenger related structures and an option (described in Chapter 8) to acquire all or less of Transferors' remaining interest in such structures.
- Transferors' interest in those freight related structures associated with rail lines designated to ConRail which structures are used and useful in rail transportation as that term is defined in Chapter 8.
- A 2-year lease with appropriate access and occupancy rights of Transferors' interest in that portion of any structure transferred to or left with others than ConRail in which rail properties otherwise designated to ConRail are located.

**Freight Cars and Nonpassenger Service Locomotives**—Transferor's interest in all freight cars and nonpassenger service locomotives except for:

- such equipment under leases not meeting lease designation standards, and
- such equipment designated for offer to the Chessie.

**Passenger Service Locomotives**—An option (described in Chapter 8) to purchase transferors' interests in passenger service locomotives, except:

- such equipment under leases not meeting lease designation standards, and
- such equipment designated for offer to the Chessie.

**Passenger Cars**—An option (described in Chapter 8) to purchase transferors' interests in passenger cars except:

- such equipment under leases not meeting lease designation standards
- such equipment designated for offer to the Chessie.

**Work equipment**—Transferors' interest in work equipment except:

- that offered to Chessie, and
- such equipment under leases not meeting lease designation standards.

**Roadway machinery**—Transferors' interest in roadway machinery except:

- that offered to Chessie, and
- such equipment under leases not meeting lease designation standards.

**Miscellaneous equipment**—Transferors' interest in miscellaneous equipment except:

- such equipment under leases not meeting lease designation standards,
- that equipment offered to Chessie, and
- those vehicles related to continued administration of the transferor.

## Exceptions and Additions

To the extent indicated, the designations from each of the transferors whose names appear in the part of this section which follows vary from the general designations.

The following are excepted from the rail property transfers of the listed transferors:

**Yards**—Transferors' interest in only portions of the following yards are designated to ConRail, as outlined in the Final System Plan Map Compendium available at the Public Information Office of the Association:

Transferor	Yard
Connecting Railway Co.....	Grogan Yard, Columbus, Ohio.
Philadelphia, Baltimore & Washington R.R. Co.	"A" and "B" Yard, Columbus, Ohio.
United New Jersey RR & Canal Co....	59th Street, Chicago, Ill.
Central RR of New Jersey.....	Greenville Yard, Jersey City, N.J.
	Haralms Cove Yard, Jersey City, N.J.
	E-Port Yard, Elizabeth, N.J.

Transferors' interest in all of the following yards are not designated to ConRail:

Transferor	Yard
Canada Southern Railway Co.....	Victoria Yard, Ft. Erie, Ontario.
Penna. Tunnel & Terminal R.R. Co....	New Lots Yard, New York, N.Y.
Philadelphia, Baltimore & Washington R.R. Co.	Effner Yard, Effner, Ind.
Pittsburgh, Ft. Wayne & Chicago Railway Co.	"C" and "D" Yard, Columbus, Ohio.
Pittsburgh, Youngstown & Ashtabula Railway Co.	12th Street Yard, Chicago, Ill.
Pennel Company.....	Girard Yard, Girard, Ohio.
Cleveland, Cincinnati, Chicago & St. Louis Railway.	Austenbury Yard, Austenbury, Ohio.
	Southport Yard, Elmira, N.Y.
	Benton Harbor Yard, Benton Harbor, Mich.

The portion transferred to ConRail of any yard transferred from the Chicago River and Indiana R.R. is limited to that needed to sustain ConRail operations.

The following additional rail properties of the transferors listed are designated for transfer to ConRail.

### Transferor

Canada Southern Railroad Co.  
Detroit River Tunnel Co.  
Niagara River Bridge Co.  
Michigan Central R.R. Co.

The rail properties in Canada owned by the Canada Southern Railroad Co., the Detroit River Tunnel Co., and the Niagara River Bridge Co. which are designated in fee to ConRail are subject to the following alternative designation: If it should be determined that the transfer of properties owned and located in Canada designated in the FSP cannot be effected under the Act, then the stock and lease hold interest of PCTC and Michigan Central in the Canada Southern Railroad Co. and Detroit River Tunnel Co., the leasehold interest of the Penn Central and the stock interest of Canada Southern (if permitted by law) in Niagara River Bridge Co. are designated for transfer to ConRail.

Both the basic and the alternative designations of these properties will not become effective if within 60 days of the effective date of the FSP, Penn Central, Michigan Central, and Canada Southern, as appropriate, enter into a binding agreement for sale of the Canadian properties which reserves to ConRail trackage rights which, in the judgment of USRA, would provide operating and capital costs for ConRail similar to those under the designation and which are otherwise in accord with the needs of ConRail.

### Mahoning Coal R.R. Co.

The transferor's interest in the Lake Erie & Eastern Railroad.

### Michigan Central Railroad

The transferor's stock interest in the following corporations:  
Detroit Terminal Railroad  
Toledo Terminal Railroad.

### Peoria & Eastern Railway Co.

The transferor's stock interest in the Peoria & Pekin Union Railway.

### St. Lawrence and Adirondack Railway Co.

The designation of the rail properties of the St. Lawrence & Adirondack Railway Co. to ConRail is subject to the following alternative designation: If it should be determined that the transfer designated in the FSP, of assets owned and located in Canada, cannot be effected under the Act, then the leasehold and stock interests of the Penn Central in the St. Lawrence and Adirondack Railway Co. are designated for transfer to ConRail.

### Indianapolis Union Railroad

The transferor's leasehold interest in the Indianapolis Belt Railroad.

### Norwich & Worcester Railroad Co.

The designation to ConRail of rail properties of the Norwich & Worcester Railroad Co. is subject to the condition that, if within 60 days of the effective date of the FSP, the Norwich & Worcester provides for continuity of operations by entry into an agreement with another railroad for sale or operation of the designated properties, the designation to ConRail will not be effective.

Both the designation to ConRail and the designation to Providence & Worcester of rail properties of the Norwich & Worcester Railroad Co. are subject to the condition that if within 60 days of the effective date of the FSP the Norwich & Worcester has presented to USRA a sound plan to operate the rail lines designated on and after conveyance date, which would maintain the same service coverage as the designations would provide, then these designations will not be effective.

### Manor Real Estate

The transferor's interests in all rail properties in Buckeye Yard.

### Philadelphia, Baltimore & Washington Railroad Co.

Transferor's interest in the stock of the following corporations:

TRRA of Saint Louis  
Pittsburgh, Chartiers & Youghiogheny

An option (described in Chapter 8) to purchase Transferor's interest in the stock of Washington Terminal Co. An option to purchase Transferor's interest in a trust agreement relating to the Ivy City Yard (also known as the Joint Coach Yard in Washington, D.C.)

The Transferor's interest in the Wilmington Heavy Repair Shop adjacent to the Edgemoor Yard.

### Cleveland, Cincinnati, Chicago and St. Louis

The transferor's leasehold interest in the Central Railroad of Indianapolis.

### Penn Truck Lines

The transferor's interest in all highway revenue equipment leased from Excelsior Truck Leasing Corp., subject to the lease designation standards described in Chapter 8; all franchises, licenses and other operating authorities, and an option to acquire other Penn Truck Lines interests in other equipment and other rail property; with such authorities, and option limited, however, to those used or useful in connection with operations to be conducted by ConRail.

Special exceptions and additions to designations are noted with respect to the transferors whose names appear in the following part of this section.

### Transferor—Penn Central Transportation Co.

#### • road properties

##### Rail lines—

- There is designated for transfer to ConRail, an option to purchase Transferor's interest in the portion of USRA Line Code No. 484 between Howe and Maronts as described in Project C&NW 434 in Table D-2 of Section G of this Appendix.

##### Yards—

- Transferor's interests in and rights to use the properties of Manor Real Estate in Buckeye Yard in Columbus, Ohio.
- Transferor's interest in the trust agreement relating to the Ivy City Yard (also known as the Joint Coach Yard) in Washington, D.C.
- Transferor's interest in that portion of the following yards which is outlined on yard maps in the Final System Plan Map Compendium available at the Public Information Office of the Association.

Name	Location
Weehawken.....	Weehawken, N.J.
60th Street.....	New York City, N.Y.
80th Street.....	New York City, N.Y.
South Boston.....	Boston, Mass.
Pittsford.....	Pittsford, Pa.
Stanley.....	Toledo, Ohio.
Altoona.....	Altoona, Pa.
Utica.....	Utica, N.Y.
Cedar Hill.....	New Haven, Conn.
Grogan Yard.....	Columbus, Ohio.
Greenville.....	Greenville, N.J.
Harsimus Cove.....	Jersey City, N.J.
59th Street.....	Chicago, Ill.
"A"—"B".....	Columbus, Ohio.

- Transferor's interests in the following yards are not designated for transfer to ConRail:

Name	Location
Dock Junction.....	Erie, Pa.
Buttonwood.....	Wilkes-Barre, Pa.
Malone.....	Malone, N.Y.
Newburgh.....	Newburgh, N.Y.
Southport.....	Elmira, N.Y.
New Lots.....	New York City, N.Y.
Newport.....	Newport, R.I.
Effner.....	Effner, Ind.
Victoria.....	Fort Erie, Ontario.
Fort.....	New London, Conn.
Plainfield.....	Plainfield, Conn.
New Kensington.....	New Kensington, Pa.
Girard.....	Girard, Ohio.
Piling.....	Toledo, Ohio.
C-D Yard.....	Columbus, Ohio.
Austinburg.....	Austinburg, Ohio.
W. Columbus.....	Columbus, Ohio.
12th Street.....	Chicago, Ill.
Joliet.....	Joliet, Ill.
Benton Harbor.....	Benton Harbor, Mich.
Plainville.....	Plainville, Conn.
Yard Avenue.....	Boston, Mass.
Midway.....	New London, Conn.
E. Boston.....	Boston, Mass.
Lowell.....	Lowell, Mass.

**Marine Terminal Facilities**—Transferor's interest in the marine terminal facility at Greenville Yard, Jersey City, N.J. is designated for transfer to ConRail.

**Facilities (including shops, shop machinery, enginehouses, fuel stations and roadway buildings and service and maintenance facilities) not otherwise designated to Amtrak or transportation authorities.**

- Transferor's interest in the engine service facility at Three Rivers, Mich. is not designated for transfer to ConRail.

- Transferor's interest in the Wilmington Heavy Repair Shop adjacent to the Edgemoor yard (which is offered to the Southern) is designated for transfer to ConRail.

**Intermodal Terminals**—Transferor's interest in the Port Newark intermodal terminal at Newark, N.J., is not designated for transfer to ConRail.

**Rail Welding Facilities**—Transferor's interest in all rail welding facilities is designated for transfer to ConRail.

**Stations and other Structures not otherwise designated to Amtrak or transportation authorities—**

- There is designated for transfer to Con Rail such leasehold, occupancy and access rights in the Providence Union Station and the terminal agreement relating thereto as are necessary to the operation of present passenger services, and an option to purchase, lease or otherwise acquire all or less of transferor's remaining interest.
- Such leasehold, occupancy and access rights in transferor's interest in passenger stations and other structures associated with rail lines in the Northeast Corridor which are necessary to the operation of present passenger services and an option (described in Chapter 8) to purchase, lease, or otherwise acquire the remainder or less of transferor's interest.

#### • equipment

Type	Identification Number	Finance Method	Agreement Number
MU-Electric.....	800-805	Leased.....	738
".....	807-821	".....	738
".....	850-860	".....	738
".....	862-869	".....	738
".....	880-889	".....	738

**Passenger Cars**—There is designated for transfer to ConRail the option described in Chapter 8, to purchase the transferors' interest in all passenger cars, except:

**Nonpassenger service locomotives**—There is designated for transfer to ConRail an option to purchase Transferor's interest in the following locomotives which were manufactured and are operated in Canada:

Type	Identification No.
EMD GP-7.....	5821-5827
EMD GP-9.....	7432-7440

**Freight cars**—Transferor's interests in the following freight cars are not designated for transfer to ConRail.

Type	No. of Units	Identification Number	Finance method	Agreement number
Flat TOFC.....	100	008700-008799	Lease.....	673
Flat TOFC.....	100	008800-008899	Lease.....	672
Flat TOFC.....	100	008900-008999	Lease.....	671
Flat TOFC.....	100	009000-009099	Lease.....	670
Flat TOFC.....	100	009100-009199	Lease.....	669
Flat TOFC.....	060	009200-009249	Lease.....	668
Flat TOFC.....	019	009300-009328	Lease.....	668
Flat TOFC.....	028	009700-009799	(Unencumbered)	

**Floating equipment**—An option (described in Chapter 8), to purchase all or part of transferor's interest in the following floating equipment:

Type	Name or Identification Number	Number of Units
1980 Tug Boats.....	Cincinnati.....	1
1980 Tug Boats.....	New York.....	1
1980 Tug Boats.....	Harrisburg.....	1
1980 Tug Boats.....	Pittsburgh.....	1
1980 Car Floats.....	70.....	1
1987 Car Floats.....	72.....	1
1983 Car Floats.....	80-84.....	2
1944 Car Floats.....	640.....	1
1945 Car Floats.....	642-645.....	3
1966 Car Floats.....	669.....	1

#### Highway revenue equipment—

- Transferor's interest in all highway revenue equipment owned by transferor;
- Transferor's leasehold interest in highway revenue equipment leased from Excelsior Truck Leasing except such equipment under leases not meeting lease designation standards; and
- Transferor's leasehold interest in highway revenue equipment leased from Pennsylvania Truck Lines.

**Transferor—Penn Central Transportation Co.—Con.**• **materials and supplies**

- Transferor's interest in materials and supplies in the stationery storehouse in Cleveland, Ohio are designated for transfer to ConRail.

• **administrative assets**

- Transferor's leasehold interest in the following buildings is designated for transfer to ConRail.

6 Penn Center Plaza, Philadelphia, Pa.  
15 N. 32nd Street, Philadelphia, Pa.  
31 East Georgia St., Indianapolis, Ind.

• **other****Stock—**

- Transferor's stock interest in the following corporations:

Belt Railway Co. of Chicago  
Illinois Terminal Railroad  
Peoria & Pekin Union Railway  
Detroit Terminal Railroad  
Toledo Terminal Railroad  
Indiana Harbor Belt Railroad  
Calumet Western Railroad  
Akron & Barberton Belt Railroad  
Monongahela Railway  
Trailer Train Company  
Fruit Growers Express Co.

- An option (described in Chapter 8) to purchase transferor's interest in the stock of the following corporations:

Lakefront Dock & Railroad Terminal Company  
Richmond-Washington Co.

**NOTE:** The rail properties in Canada owned by the Canada Southern Railroad Company, the Detroit River Tunnel Company, and the Niagara River Bridge Company which are designated in fee to ConRail are subject to the following alternative designation: If it should be determined that the transfer of properties owned and located in Canada designated in the FSP cannot be effected under the Act, then the stock and leasehold interest of PCTC and Michigan Central in the Canada Southern Railroad Company and Detroit River Tunnel Company, the leasehold interest of the Penn Central and the stock interest of Canada Southern (if permitted by law) in Niagara River Bridge Company are designated for transfer to ConRail. Both the basic and the alternative designations of these properties will not become effective if within 60 days of the effective date of the FSP, Penn Central, Michigan Central, and Canada Southern, as appropriate, enter into a binding agreement for sale of the Canadian properties which reserves to ConRail trackage rights which, in the judgment of USRA, would provide operating and capital costs for ConRail similar to those under the designation and which are otherwise in accord with the needs of ConRail.

- Trackage rights reserved by transferor for operating freight and passenger service over the rail properties sold to the Commonwealth of Massachusetts and MBTA.
- Trackage rights reserved by transferor for freight and passenger service under the West End Agreement with the Connecticut Transportation Authority and Metropolitan Transportation Authority.
- Trackage rights reserved by transferor for freight and passenger operations under the Hudson/Harlem lease agreement.
- All other trackage rights reserved by transferor and currently used by it in its operations over lines sold or leased by it to public authorities.
- Trackage rights in the transferor's leasehold interest in three specific line segments of the New York and Harlem Railroad Company as indicated in the Rail Lines Table.
- Transferor's leasehold interest in the following railroads:  
Amsterdam, Chuchtanunda and Northern Railroad,  
Central Railroad of Indianapolis.
- Transferor's leasehold and stock interest in the St. Lawrence & Adirondack Railway Company are designated for transfer to ConRail only if it should be determined that the transfer of Canadian rail properties of the St. Lawrence & Adirondack Railway Company to ConRail as designated in the FSP cannot be effected under the Act.

**Transferor—Reading Company**• **equipment**

There is designated for transfer to ConRail:

**Nonpassenger service locomotives—**Transferor's interest in the following non-passenger service locomotives:

Type	No. of Units	Identification No.	Finance Method	Finance No.
GP7.....	1	630	Unencumbered...	
GP7.....	1	623	".....	
GP7.....	1	623	".....	
GP7.....	1	624	".....	
GP7.....	12	625-636	".....	
GP7.....	1	662	".....	

**Freight cars—**

- Transferor's interest in approximately 1,100 hopper cars currently under construction.

• **materials and supplies**

There is designated for transfer to ConRail transferor's passenger related materials and supplies in Reading, Pa.

• **administrative assets**

There is designated for transfer to ConRail transferor's interest in the Reading Terminal at Reading, Pa. with an allocation of appropriate office space to Chessie necessary for operations, subject to payment of appropriate rental to ConRail.

**Transferor—Lehigh Valley Railroad**• **road properties****Yards—**

- There is designated for transfer to ConRail Transferor's interest in that portion of the following yards which is outlined on yard maps in the Final System Plan Map Compendium available at the Public Information Office of the Association:

Name	Location
Jersey City.....	Jersey City, N.J.
Sayre.....	Sayre, Pa.

- No interest in the following yards is designated for transfer to ConRail:

Name	Location
Jim Thorpe.....	Jim Thorpe, Pa.
E. Claremont.....	Jersey City, N.J.
Geneva.....	Geneva, N.Y.
Rochester.....	Rochester, N.Y.
E. Buffalo.....	Buffalo, N.Y.
Suspension Bridge.....	Niagara Falls, N.Y.
Manchester.....	Manchester, N.Y.

**Transferor—Central Railroad of New Jersey**• **road properties**

**Yards—**There is designated for transfer to ConRail Transferor's interest in only that portion of the following yard which is outlined on yard maps in the Final System Plan Map Compendium available at the Public Information Office of the Association:

Name	Location
E-Port.....	Elizabeth, N.J.

**Transferor—Erie Lackawanna**• **road properties**

**Yards—**There is designated for transfer to ConRail Transferor's interest in the 51st St. Yard in Chicago, Ill.

• **materials and supplies**

There is designated for transfer to ConRail Transferor's interest in passenger related materials and supplies at Hoboken, N.J.

• **administrative assets**

There is designated for transfer to ConRail Transferor's interest in the Hoboken Terminal at Hoboken, N.J. with an allocation of appropriate office space to Chessie necessary for operations, subject to payment of appropriate rental to ConRail.

• **other**

**Stock—**Transferor's stock interest and operating agreement in Chicago & Western Indiana.

## INTERESTS DESIGNATED TO COMBAIL

LINE CODE	FROM STATION	TO STATION	NP1	NP2	FRANCH NAME	INTERESTS
TRANSFEROR: ST. LAWRENCE & ADIRONDACK RY. CO.						
4756	INT BOUNDARY	HUNTINGTON	10.3	17.9	HALOES SEC	LINE TO CBC
4756	HUNTINGTON	ADIRONDACK JCT	17.9	56.4	MONTREAL BR	LINE TO CBC
TRANSFEROR: SHANKIN VALLEY & POTTSVILLE R. R. CO.						
1347	SUNBURY KASE	SUNBURY & ST	0.0	0.2	SHANKIN SEC	LINE TO CBC
1347	FAZINOS	SHANKIN	12.0	18.2	SHANKIN SEC	LINE TO CBC
1347	FULTON	SAGIN JCT	23.0	26.0	SHANKIN SEC	LINE TO CBC
TRANSFEROR: TROY & GREENBUSH R. R. ASSN.						
4735	DEUSSELAER CP3	TROY	0.0	5.7	TROY SEC	LINE TO CBC
TRANSFEROR: UNION R. R. CO. OF BALTIMORE						
1260	MCLOURET ST.	SUTTON	0.0	3.3	UNION RR-BEAR CR	LINE TO CBC
TRANSFEROR: UNITED N. J. R. & CANAL CO.						
1124	ISEWICH PAID	ISEWICH NG	0.3	1.4	DELVIDERE BR	LINE TO CBC
1124	IRENTON NG	MILFORD	1.4	34.4	DELVIDERE BR	LINE TO CBC
1124	KILFORD	PHILLIPSBURG	34.4	50.7	DELVIDERE BR	LINE TO CBC
1124	PHILLIPSBURG	DELVIDERE	50.7	64.3	DELVIDERE BR	LINE TO CBC
1124	DELVIDERE	DELVIDERE	64.3	65.3	DELVIDERE BR	LINE TO CBC
1125	CANDEN	DELAIR	0.9	5.0	BORDENTOWN BR	LINE TO CBC
1125	DELAIR	EDGEWATER PK	5.0	16.0	BORDENTOWN SEC	LINE TO CBC
1125	EDGEWATER PK	BORDENTOWN TO	16.0	26.7	BORDENTOWN SEC	LINE TO CBC
1125	BORDENTOWN BO	WINDSOR	26.7	37.9	ROBBINSVILLE SEC	LINE TO CBC
1126	ISEWICH	BORDENTOWN	0.0	6.0	BORDENTOWN BR	LINE TO CBC
1166	FLORENCE	CLIVE STREET	0.0	0.9	FLORENCE BRANCH	LINE TO CBC
1167	BORDENTOWN BR	PETTY ISLAND	0.0	2.0	PETTY ISLAND BR	LINE TO CBC
1168	FLORENCE	FLORENCE	0.0	1.6	TURKEY BR	LINE TO CBC
1420	JERSEY CITY	HARRISON	1.0	7.0	HARRISON BRANCH	LINE TO CBC
1421	HA-5	SEAHAM	0.0	4.4	PASSAIC BRANCH	LINE TO CBC
1422	HA-5	GREENVILLE "DAY"	0.0	4.2	GREENVILLE BR	LINE TO CBC
1422	GREENVILLE "DAY"	GREENVILLE YD	4.2	6.5	GREENVILLE BR	LINE TO CBC/TO OTHERS
1423	UNION	PERTH AVEY	0.0	5.9	PAGWOODBRIDGE BR	LINE TO CBC
1425	SC ARDCEY JCT	JAMESBURG JG	0.5	13.6	ANBOY SEC TK	LINE TO CBC
1426	HIDWAY	JAMESBURG	0.0	5.0	JAMESBURG BR	LINE TO CBC
1426	JAMESBURG	JAMESBURG JG	5.0	5.5	JAMESBURG BR	LINE TO CBC
1428	NEW BRUNSWICK	HIDDLEBUSH	0.0	3.0	HILLSTONE BR	LINE TO CBC
1429	ROCKWOOD JCT	HIGHWAY 26	0.0	2.7	KINGSTON BR	LINE TO CBC
1431	HARRISON	HARRISON BRANCH	0.0	1.0	CENTRE ST BR	LINE TO CBC
1432	HUDSON	HARRISON	0.0	1.4	HARRISON BR	LINE TO CBC
1433	SETUCEEN	BONHAMTON	0.1	1.7	BONHAMTON BR	LINE TO CBC
1434	HEADONS YD	FED STS YD	0.0	0.9	HEADONS TR NO. 1	LINE TO CBC
1434	HEADONS YD	LINCLEN BAY	0.0	0.9	HEADONS TR NO. 2	LINE TO CBC
1437	JAMESBURG	EIGHTH ST	13.6	21.7	HIGHTSTOWN SEC	LINE TO CBC
1438	HARRISON	SUSSEX ST	0.0	0.6	HESH & HUE COUN	LINE TO CBC
1439	BUNTER	END	0.0	1.7	WEST NEWARK BR.	LINE TO CBC
1440	JERSEY CITY	JERSEY CITY	0.0	1.3	HUDSON ST BR	LINE TO CBC
1441	JERSEY CITY	CROITOP IC.	0.0	2.0	SUSQUEHANNA CGWH.	LINE TO CBC
1455	ELIHAN	COAL POPI YD.	0.0	2.1	ELIHAN BR.	LINE TO CBC
1456	TRENTON	COAL POPI YD.	0.0	4.1	ENTREPRISE BR.	LINE TO CBC
1457	EIDEL BR.	BORDENTOWN BR.	0.0	1.0	SC. TRENTON BR.	LINE TO CBC
1459	"C"	HARTMAN CREEK BR.	0.0	0.3	HARTMAN CREEK BR.	LINE TO CBC
1460	ROSBURG	PEEL	0.0	0.2	ROSBURG BR.	LINE TO CBC
TRANSFEROR: CHICAGO, KALAMAZOO & SAGINAW RR. CO.						
5344	PARCHEMENT	MCSEL FCAD	42.3	42.7	CKGS BR	LINE TO CBC
5344	MCSEL FCAD	KALAMAZOO	42.7	43.9	CKGS BR	LINE TO CBC
5344	KALAMAZOO	PAVILION JCT	43.9	45.9	CKGS BR	LINE TO CBC
TRANSFEROR: JOLIET & NORTHERN INDIANA R. R. CO.						
3233	BARTSDEAL	IN/IL ST LINE	12.8	15.6	JOLIET BR	LINE TO CBC
3233	IN/IL ST LINE	PATTESCO	15.6	24.8	JOLIET BR	LINE TO CBC
TRANSFEROR: BIRCHING & SENECA VALLEY CO.						
2443	DOUGHTON JCT CP52	FARRLEY EL BR	0.0	5.8	SHACK BR	LINE TO CBC
TRANSFEROR: NIAGARA RIVER BRIDGE CO.						
5104	SUSP BRIDGE	INT BOUNDARY	0.0	0.2	MAIN LINE	LINE TO CBC
5104	FALLS VIEW	BROOKFIELD	0.0	10.0	MAIN LINE	LINE TO CBC
5104	INT BOUNDARY	FALLS VIEW	0.2	2.7	MAIN LINE	LINE TO CBC
TRANSFEROR: PENN CENTRAL TRANSPORTATION CO.						
1121	GLENDAL	DUNLAP	0.0	41.0	TRENTON BR	LINE TO CBC
1121	DUNLAP	SCOTTS	41.0	46.0	TRENTON BR	LINE TO CBC
1122	FAIR	TROPH	23.7	34.3	PHILADELPHIA	LINE TO CBC

the segment, total carloads for the entire segment would be 2,712 and total revenue would be \$911,232. The line would show a profit of \$310,196.

The Seneca County Chamber of Commerce stated that 10 firms in Seneca Falls, Waterloo, and Geneva shipped 731 carloads in 1973 and 806 carloads in 1974.

Comstock Foods division of Borden, Inc., stated that 24 percent of its business is dependent upon rail service. Comstock has a facility at Waterloo which shipped 69 carloads in 1972, 44 in 1973, and 64 in 1974. The low carload figure for 1973 was a result of damage from Hurricane Agnes. Comstock would be willing to accept a 50-percent reduction in service.

Wickes Corp. receives 100 carloads per year over this line.

Agway has facilities at Geneva and at Seneca Falls. Its bulk feed plant at Geneva is within the switching limits of Geneva and open to reciprocal switching. The plant is served by a yard crew in Geneva but is located on Line No. 671 segment. Agway stressed that the integrity of local switching districts must be preserved. In 1973 Agway received 314 carloads at Geneva, 282 of which were routed via the LV with PC performing only final switching. Agway questioned whether non-revenue cars were included in the data supplied to USRA by PC.

It was pointed out that the average carloads per mile over the line, using USRA's figures, should have been 113.8, not 11.4.

#### Information for Line-Transfer Decision

Revenue received by PC.....	\$720, 947
Average revenue per carload.....	\$266
<hr/>	
Variable (avoidable) cost of continued service:	
Cost incurred on the branch line.....	243, 908
Cost of upgrading branch line to FRA	
Class I: (1/10 of total upgrading cost) .....	19, 398
Cost incurred beyond the branch line.....	532, 653
<hr/>	
Total variable (avoidable) cost.....	796, 049
<hr/>	
Net contribution (loss): total.....	(75, 102)
Average per carload.....	(28)

This line would require upgrading to meet the requirements of the Federal Railroad Administration's minimum safety standards (Class I track, which has a maximum safe operating speed of 10 m.p.h.). Based on available information, this upgrading would include the replacement of a total of 1,400 crossties (an average of 100 crossties per mile).

It was pointed out in RSPO testimony that LV traffic on this line was not included. Reanalysis, including the LV traffic indicated that service to this line generated

a loss of \$75,102 in 1973. Recovery of this loss would require approximately a 40-percent increase in traffic or a 10-percent rate increase.

#### Disposition

This portion of the Auburn Branch shall be transferred to the Consolidated Rail Corp.

### 30TH STREET BRANCH

USRA Line No. 681

Penn Central

This portion of the 30th Street Branch, extending from *Spuyten Duyvil* (Milepost 0.0) to *Bank Street* (New York), N.Y. (Milepost 12.1) a distance of 12.1 miles, in New York and Bronx Counties, N.Y., a line which was recommended for inclusion on page 639 of the Preliminary System Plan, shall be transferred to the Consolidated Rail Corp.

### PORTION OF THE VERNON INDUSTRIAL TRACK

USRA Line No. 686

Penn Central

This portion of the Vernon Industrial Track, extending from *Oneida Castle* (Milepost 252.5) to *Canastota*, N.Y. (Milepost 257.7), a distance of 5.2 miles, in Madison and Oneida Counties, N.Y., a line which was recommended for inclusion on page 640 of the Preliminary System Plan, shall be transferred to the Consolidated Rail Corp.

### LOWVILLE SECONDARY TRACK

USRA Line No. 687

Penn Central

The Lowville Secondary Track, extending from *Lowville* (Milepost 58.1) to *Carthage*, N.Y. (Milepost 73.7), a distance of 15.6 miles, in Jefferson and Lewis Counties, N.Y., a line which was recommended for inclusion on page 641 of the Preliminary System Plan, shall be transferred to the Consolidated Rail Corp.

D



**CONSOLIDATED RAIL CORPORATION  
ATLANTIC REGION**

Newark, N.J., March 24, 1976.

**GENERAL ORDER No. 1**

Effective 12.01 A.M., Thursday, April 1, 1976

**(a) ENTIRE REGION**

Consolidated Rail Corporation, Atlantic Region, in charge of General Manager D. A. Swanson is established with headquarters at Newark, N.J., and is comprised as follows:

DIVISIONS	IN CHARGE OF	LOCATION
New Jersey	K. L. Lowe, Supt.	New York, N.Y.
Hoboken	C. E. Wogan, Supt.	Hoboken, N.J.
Elizabeth	S. J. Gula, Supt.	Elizabethport, N.J.
Lehigh	G. F. Bressler, Supt.	Bethlehem, Pa.
Scranton	J. H. Kithcart, Supt.	Scranton, Pa.
Susquehanna	J. W. Conner, Supt.	Hornell, N.Y.

General Orders will be issued by authority and over signature of the General Manager.

Bulletin Orders, General Notices and Train Orders will be issued by authority and over signature of the Division Superintendents.

**NEW JERSEY DIVISION**

The New Jersey Division is comprised of the following territories:

**Main Line:**

New York to Philadelphia—between Harold (MP0.7) and Division Post (MP76.0).

**Branches:**

Perth Amboy and Woodbridge—between Union (MP0.0) and Wood (MP5.8).

Princeton—between Nassau (MP0.0) and Princeton (MP2.8).

Passaic and Harsimus—between CP Waldo (MP0.0) and Lane (MP9.3).

Greenville—between Bay (MP0.0) and WA3 (MP4.2).

River Line—between CP Waldo (MP0.0) and CP 132 (MP132.5).

Catskill Mountain—between Kingston (MP0.0) and Bloomville (MP86.3).

Wallkill Valley—between Kingston (MP0.0) and Montgomery (MP33.0).

Jamesburg—between Midway (MP0.0) and JG (MP6.0).

Trenton—between Morris (MP46.0) and Division Post (MP41.0).

**Secondary Tracks:**

Amboy—between SA (MP0.0) and JG (MP13.6).

Freehold—between Jamesburg (MP5.5) and Farmingdale (MP24.1).

Hightstown—between Jamesburg (MP0.0) and Hightstown (MP8.3).

Belvidere Delaware—between Fair (MP0.3) and MG (MP1.4).

Bordentown—between Division Post (MP26.6) and Fair (MP33.3).

And other Secondary, Running, Industrial and Yard tracks connected therewith.

**HOBOKEN DIVISION**

The Hoboken Division is comprised of the following territories:

**Main Line:**

Hoboken to Port Jervis—between West End (MP1.9) and Mill Rift (MP91.2).

Morristown Line—between Hoboken (MP0.0) and Slateford Jct. (MP74.3).

Bergen County Line—between Bergen Jct. (MP3.1) and Ridgewood Jct. (MP20.2).

**Branches:**

New Jersey and New York—between NJ and NY Jct. (MP7.4) and Woodbine (MP31.2).

Montclair—between Roseville Ave. (MP9.2) and Montclair (MP13.1).

Gladstone—between Summit (MP20.1) and Gladstone (MP42.2).

Graham Line—between Newbury Jct. (MP44.9) and Howells Jct. (MP68.7).

Boonton—between West End (MP1.9) and Denville (MP34.3).

And other Branches, Industrial and Yard tracks connected therewith.

**CNJ District**

**Branches:**

High Bridge—between MP22 and End of Track (MP31.6).

Lake Hopatcong—between Hopatcong Jct. (MP0.0) and Morris County Jct. (MP0.9).

Wharton and Northern—between Morris County Jct. (MP0.0) and Picatinny Arsenal (MP3.4).

Mount Hope Mineral—between Wharton (MP0.0) and Mount Hope (MP3.2).

**ELIZABETH DIVISION**

The Elizabeth Division is comprised of the following territories:

**Main Line:**

Main Line—between 33rd St. (CP Navy) (MP5.0) and Phillipsburg (MP72.1).

Southern Sub-Division—between Bank (MP38.1) and Winslow Jct. (MP104.2).

**Branch:**

Perth Amboy—between Port Int. (MP10.0) and CP Beach (MP22.0).

**Secondary:**

Newark and Elizabeth—between Brills Jct. (MP1.7) and Port Int. (MP7.2).

**NY & LB District**

**Main Line:**

Main Line—between CP Beach (MP0.0) and Bay Head (MP38.0).

And other Branches, Secondary, Industrial and Yard tracks connected therewith.

### LEHIGH DIVISION

The Lehigh Division is comprised of the following territories:

#### Main Line:

West Oak Island to Fraser—between West Oak Island (MP10.5) and Fraser (MP147.1).  
L & S Area—Bethlehem to Lehigh—between Bethlehem (MP84.3) and Lehigh (MP114.7).  
L & S Area—Fraser to Laurel Run—between Fraser (MP143.8) and Laurel Run (MP161.2).  
Mountain Cut Off—between Laurel Run (MP164.1) and Coxton Interlocking (MP178.9).  
Coxton Interlocking to Odessa Station Switch—between Coxton Interlocking (MP185.5) and Odessa Station Switch (MP302.1).

#### Hudson River District

#### Main Line:

Main Line—between Maybrook (MP0.0) and G Tower (MP72.0).

#### LNE District

#### Main Line:

Main Line—between Bethlehem Jct. (MP0.0) and Uhlers (MP21.6).

#### Penn Central District

#### Branch:

Belvidere Delaware—between Division Post (MP18.0) and Kent (MP49.0).

#### Secondary Track:

Warren—between Kent (MP49.0) and G (MP63.9).

#### CNJ District

#### Branches:

South—between MP13.3 and connection with Black River and Western Railroad.

And other Branches, Secondary, Industrial and Yard tracks connected therewith.

### SCRANTON DIVISION

The Scranton Division is comprised of the following territories:

#### Main Line:

Delaware River to West BD—between Slatford Jct. (MP74.3) and West BD (MP192.9).

#### Branches:

Bloomsburg—between Scranton (MP133.2) and End of Track (MP151.3).

Syracuse—between BD Binghamton (MP190.7) and Division Post (MP270.0).

Utica—between Chenango Forks (MP202.8) and Division Post (MP283.4).

Bangor & Portland—between Portland (MP82.6) and Bath Jct. (MP110.5).

And other Branches, Industrial and Yard tracks connected therewith.

### SUSQUEHANNA DIVISION

The Susquehanna Division is comprised of the following territories:

#### Main Line:

Mill Rift to Hornell—between Mill Rift (MP91.2) and Hornell (MP331.3).

Hornell to Union—between Hornell (MP331.3) and Union (MP418.0).

#### Branches:

Groveland—between North Alexander (MP360.3) and Groveland (MP325.8).

Wayland—between Painted Post (MP291.8) and Division Post (MP289.6).

B & SW—between So. Dayton (MP43.3) and Waterboro (MP58.6).

And other Branches, Industrial and Yard tracks connected therewith.

#### (b) ENTIRE REGION

Timetables, operating rules, other related instructions and printed forms governing yard and train operations remain in effect on portions of former railroads comprising the Atlantic Region, Consolidated Rail Corporation, as follows:

#### PENN CENTRAL TRANSPORTATION COMPANY:

Northeast Corridor Timetable No. 11.

Rules for Conducting Transportation.

#### CENTRAL RAILROAD COMPANY OF NEW JERSEY:

Timetable No. 3.

Rules of the Operating Department.

#### NEW YORK AND LONG BRANCH RAILROAD CO.:

Timetable No. 373.

Rules of the Operating Department.

#### ERIE-LACKAWANNA RAILWAY COMPANY:

Timetables Nos. 4 and 5.

Rules of the Operating Department.

#### THE LEHIGH AND HUDSON RIVER RAILWAY CO.:

Timetable No. 165.

Rules of the Operating Department.

#### THE LEHIGH AND NEW ENGLAND RAILWAY CO.:

Timetable No. 1.

Rules of the Operating Department.

#### LEHIGH VALLEY RAILROAD

Timetable No. 10.

Book of Rules.

#### (c) TRAIN DISPATCHERS

Train dispatchers remain in charge of those tracks as presently designated in the timetables of the former railroads now timetables of the Atlantic Region, Consolidated Rail Corporation.

D. A. SWANSON,  
General Manager

POSTED BY:

(Name of employee posting this Order)

TIME

DATE

(The following receipt to be filled out and mailed  
to Superintendent of the Division where posted)

I hereby acknowledge receipt of General Order No. 1

Posted at \_\_\_\_\_ By \_\_\_\_\_ Time \_\_\_\_\_ M.

Date \_\_\_\_\_ 19\_\_\_\_. Signed \_\_\_\_\_

E

F

GRINDING								
SURFACING			81		76			
DRILLING					76			
WELDING								
MILL								
RAI. CLAN					76			
TURNING								
1 SPEED			30/20/20		44		35/30/25	4.3

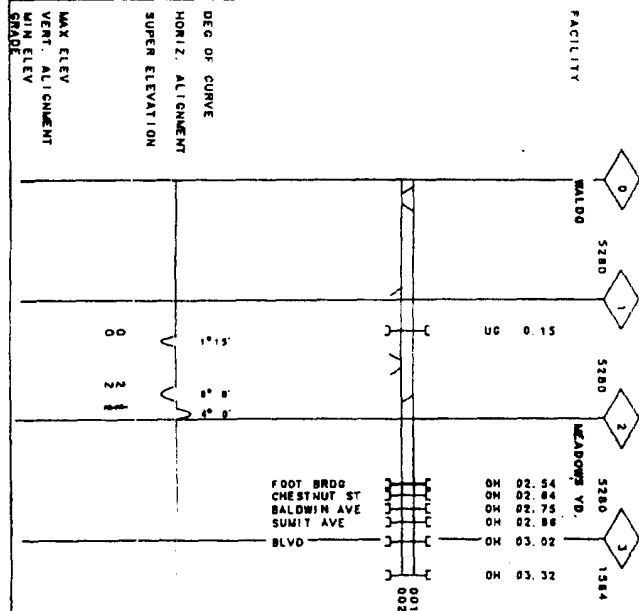
GRINDING								
SURFACING					76			
DRILLING								
WELDING								
MILL								
RAI. CLAN					76			
TURNING								
1 SPEED			30/20/20		73		35/30/25	5.2

GRINDING			
SURFACING	81	146	
TURNING		18	
WELDING			
MAIL			
PAINTING			
FORWALDING		185	
SPREAD	43	44	43
	5031628		3513273

VALUATION  
TOWN

НАЧ

**FACILITY**

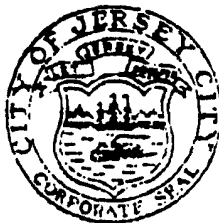




G

# CITY OF JERSEY CITY

GERALD McCANN  
Mayor



CITY HALL  
JERSEY CITY, N.J. 07302  
(201) 547-5200

December 18, 1984

L.S. Crane, Chairman  
Consolidated Rail Corporation  
1838 #6 Penn Center  
Philadelphia, Pennsylvania 19104

Dear Mr. Crane:

With the development of New Jersey's Hudson River Waterfront, the demand for freight railroads is dwindling. Investors purchasing outmoded industrial facilities have begun their redevelopment into higher-use offices and residential complexes. This is a phenomena with which Conrail is intimately familiar as you have sold several surplus parcels to facilitate Jersey City's waterfront development activities. At the same time, however, underutilized railroad property and trackage which services the remaining industrial facilities has become an impediment to the redevelopment of entire development tracts along the Hudson River.

As Conrail is well aware through its current negotiations, this is the present case with the P&H Branch and the Sixth Street trestle serving the Hudson Street tracks in Jersey City. Although the majority of the property at this location is under contract to the ASH Development Company, the remaining active tracks cut a diagonal line through a forty acre waterfront development site. The line then runs at street grade bisecting two major office projects to the south: the Harborside Financial Center, a two million square foot rehab project where the Bankers Trust Company is already leasing almost one-half million square feet of office space, and a seventeen story, 325,000 square foot office building under construction by an affiliate of the Evergreen Shipping Lines.

The line continues along Hudson Street at grade, crossing both Christopher Columbus Drive and Montgomery Street which will serve as main arteries to the imminent commercial developments at Exchange Place.

Because of the dramatically changing land uses in the area, I believe you will agree that the time of the freight line service on this line has passed. I suggest we meet in the near future to discuss the discontinuance of this impediment and to select an alternate means of serving your remaining customers.

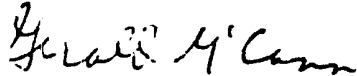


Page Two  
December 18, 1984  
L.S. Crane, Chairman

Because of the dramatically changing land uses in the area, I believe you will agree that the time of the freight line service on this line has passed. I suggest we meet in the near future to discuss the discontinuance of this impediment and to select an alternate means of serving your remaining customers.

My office will be in contact immediately after the Holidays to arrange a date.

Very truly yours,

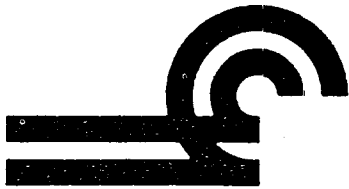
A handwritten signature in cursive script, appearing to read "Gerald McCann".

Gerald McCann  
Mayor

GMCC:AH:vp

H

CONRAIL



RECEIVED

89 AUG -1 AM 9:55

CITY OF JERSEY CITY  
ENGINEERING

cc: Jerry N.  
John M.  
Sue M.  
orig: MTB  
I need to  
write back &  
schedule a  
site mtg.  
JMB

July 28, 1989

Mr. Michael J. Barnes, P.E., P.P.  
Municipal Engineer  
Division of Engineering  
280 Grove Street  
Jersey City, New Jersey 07302

Re: Harsimus Branch, Jersey City, NJ

Dear Mr. Barnes:

Please reference your letter of May 12, 1989 in regard to bridge conditions along the Harsimus Cove Branch. All bridges and retaining walls between Henderson Street and Newark Avenue were inspected on June 6, 1989. At the time of this inspection there was no immediate danger or evidence of loose material falling from these bridges.

We will continue to inspect and monitor bridge conditions along this line and remove any loose material as necessary.

Also, you may be aware that only one track is in service along this six (6) track line segment. The remaining active track will be abandoned once the new Marion Junction Connection is in service. This project, in cooperation with the State of New Jersey, is scheduled for completion in late 1992. At the completion of the Marion Connection the Harsimus Branch will be sold and dismantled.

In the interim, I have initiated the retirement of the six (6) inactive tracks and the removal of the bridge superstructures between Henderson Street and Brunswick Avenue, inclusive. I will keep you advised as to when this retirement project has been finalized and funded.

Very truly yours,

C. F. Morey, P.E.  
Assistant Division Engineer  
Conrail  
Philadelphia Division

10th Floor-15 N. 32nd Street  
Philadelphia, PA 19104-2849

I

## National Bulk Carriers, Inc.

Edward A. McDermott, Jr.  
PRESIDENT

March 30, 1994

To: <i>T. Leone</i>	From: <i>E. McDermott</i>
Co.	Co.
Dept.	Phone #
Fax # <i>201-714-7614</i>	Fax #

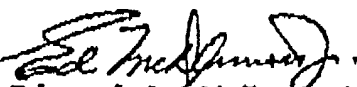
VIA FAX (215) 209-3788

Mr. J. D. Cossel  
Chief Engineer, Design and Construction  
Consolidated Rail Corporation  
2001 Market Street  
Philadelphia, PA 19101-1417

Dear Mr. Cossel:

In the course of a site visit, I learned that Conrail will be hooking up Marion Junction on April 6 or thereabouts. As my letter to Mr. Hagen of December 22, 1993 indicated, National Bulk Carriers would like to have the quit claim deed extinguishing the easement at Harsimus Cove filed on April 6 as well. Although I have not heard from you since your January 5 letter, our counsel advise that no ICC approval of the abandonment is required. Please let me know as soon as possible when the easement will be surrendered as a matter of record.

Yours very truly,



Edward A. McDermott, Jr.  
President

./kom

hcc: W. Crabtree  
T. Leone ✓

J

File

CITY OF  
**JERSEY CITY**  
DIVISION OF ENGINEERING



GERALD J. NISSEN, P.E., P.P.  
DIRECTOR OF ENGINEERING

April 5, 1995

280 GROVE STREET  
JERSEY CITY, NJ 07302  
(201) 547-4412

Conrail  
2001 Market Street  
PO Box 41410  
Philadelphia, PA 19101-1410

Attention: J. D. Cossel, P.E., Chief Engineer  
Design and Construction

**SUBJECT: Removal of Conrail's 6th St. Viaduct (abandoned Harsimus Cove Branch) JC Project No. 92-008**

Dear Mr. Cossel:

On April 13, 1994, Conrail's Northern Branch was connected to the P & H Branch at Marion Junction. During the summer of 1994, a private contractor National Salvage and Service Corporation hired by Conrail removed all rail and ties from the now abandoned Harsimus Cove Branch. The only exception to this was that the larger ties on the bridges connecting the elevated earth embankments were not removed.

In July 1994, Jersey City in a joint venture with National Bulk Carriers, Inc. demolished and removed the Harsimus Cove Bridge spanning over Luis Munoz Marin Blvd. (Henderson Street) at no cost to Conrail. At that point, Conrail solicited demolition bids and selected a low bidder, thus we were led to believe that the remaining Harsimus Cove Bridges from Grove Street west to Newark Avenue and beyond to CP Waldo would be removed during the winter of 1994/95. In August 1994, we performed a survey of all underbridge lighting and overhead wires at each bridge that would have to be disconnected, removed or relocated and alerted the various utility companies of the proposed demolition project. Please refer to the attached sketches.

Unfortunately, when we contacted Conrail in mid December 1994, we were advised that no funding had been budgeted for the first 6 months of 1995 and that the project had been put on hold.

At this time, we are requesting a schedule when Conrail will remove these bridges and what are the long term plans for the removal of the masonry stone/earth filled embankments as well as the future use of the Harsimus Cove Right-of-way.


We feel these bridges are hazardous structures which should be removed as soon as possible. Some of these bridges have very low underclearances which have resulted in trucks striking the bridges.

The latest incident occurred on September 13, 1994 when a garbage container truck struck the Erie Street Bridge significantly moving and buckling two large plate girders and raining debris on the road and sidewalk below. Fortunately, no pedestrians were walking under the bridge when the incident occurred. Some of these bridges are so old that large flakes of rust are lying on the bottom flanges, not to mention other miscellaneous debris.

This elevated viaduct is also an eyesore which divides the downtown section of Jersey City. Recently, Conrail reconstructed the National Docks Secondary Branch in downtown Jersey City and the design selected placed an emphasis on aesthetics. We feel that same type of emphasis should now be placed on this abandoned Harsimus Cove Viaduct by removing it not just for aesthetics but more importantly for safety.

Jersey City cooperated with Conrail and the NJDOT on the new Marion Junction connection for many years which as we mentioned at the beginning of this letter culminated on April 13, 1994. We hope that Conrail will now cooperate with Jersey City by removing the abandoned Harsimus Cove Viaduct for the benefit of all parties involved.

Very truly yours,

  
John Mucha, P.E.  
Principal Engineer

  
Gerald J. Nissen, PE, PP  
Municipal Engineer

tb

cc: Councilman Jaime Vasquez  
Barbara Bieber, Director, JC Redevelopment Agency  
Cheryl Allen-Munley, Director, Bureau of H&T  
Pat Nelan, Traffic Engineering  
Tom Leane, NBC  
Francois LeBrun  
Liz Jeffrey, Director, Economic Dev.



# FIELD NOTES

JOB NO. 92-008

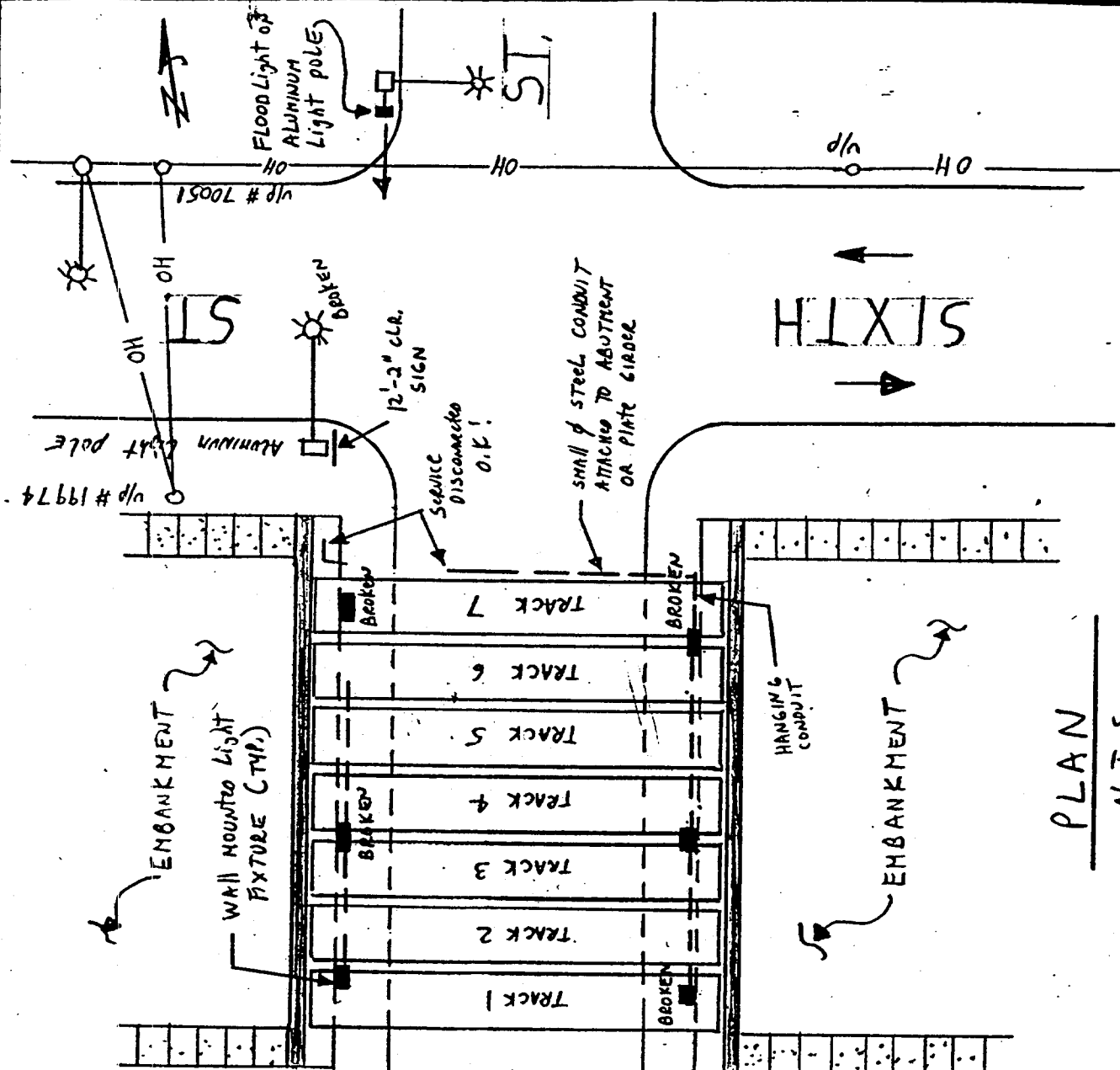
BRIDGE NO. CONRAIL GROVE ST.

DATE AUG 26 & 29, 1994

SHEET 1 OF 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J. MUCHA



GROVE

## NOTES:

- \* LIGHTING CONDUIT BROKEN AND ELECTRICAL SERVICE WIRES DISCONNECTED
- \* O.K. FOR DEMOLITION
- \* NEW TRAFFIC LIGHT SYSTEM TO BE INSTALLED @ 6TH & GROVE BY JC IN OCTOBER 1994

PLAN

N.T.S.

# FIELD NOTES

JOB NO. 92-008

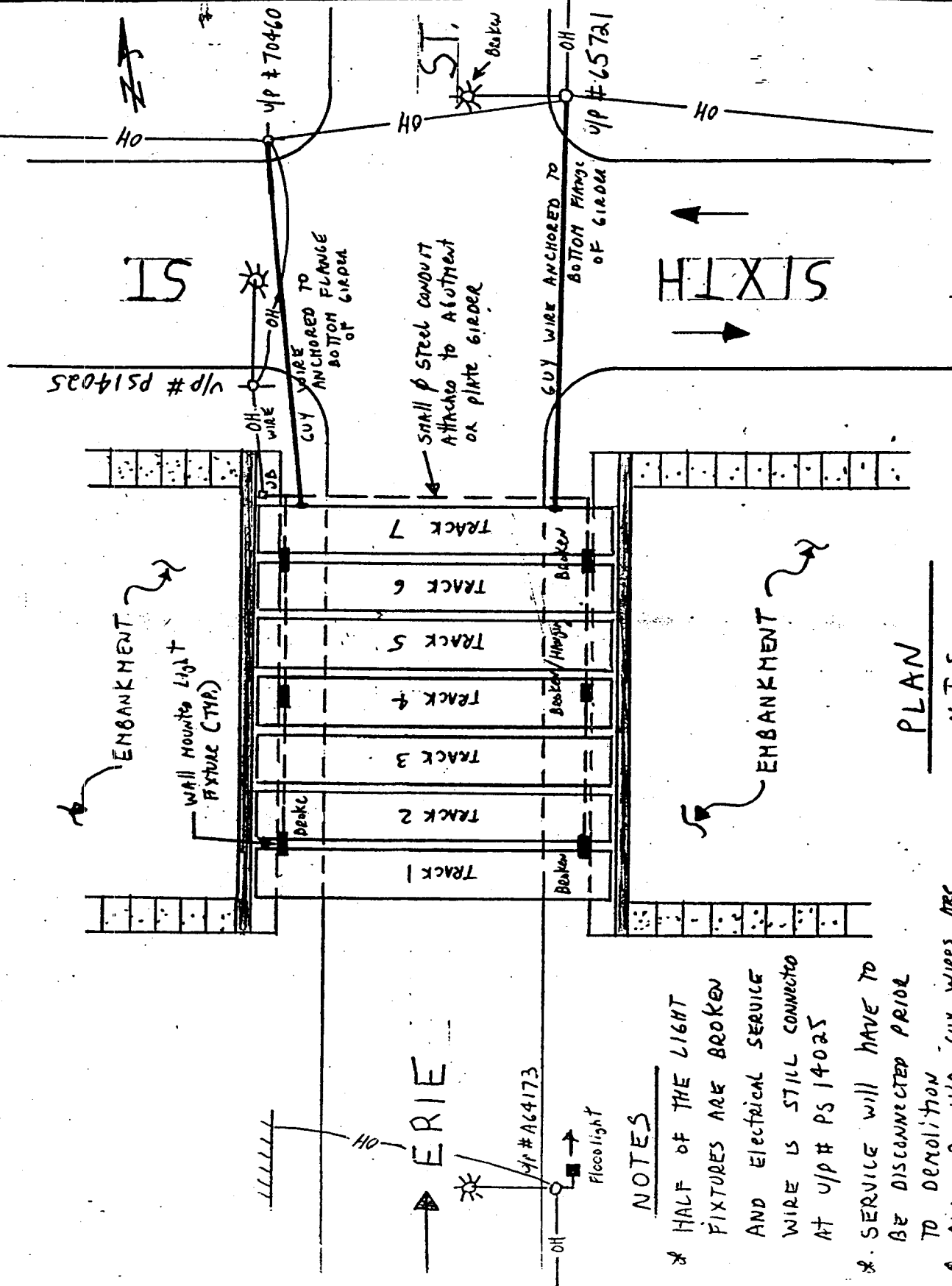
BRIDGE NO. CONRAIL  
ERIE ST.

DATE AUG 26 229, 1994

SHEET 2 OF 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J, MUCHA



## NOTES

- \* HALF OF THE LIGHT FIXTURES ARE BROKEN AND ELECTRICAL SERVICE WIRE IS STILL CONNECTED AT UP # PS 14025
- \* SERVICE WILL HAVE TO BE DISCONNECTED PRIOR TO DEMOLITION
- \* ALSO 2 UP GUY WIRES ARE ANCHORED TO BOTTOM PLATES AND WILL HAVE TO BE REMOVED

PLAN

N.T.S.

# FIELD NOTES

JOB NO. 92-008

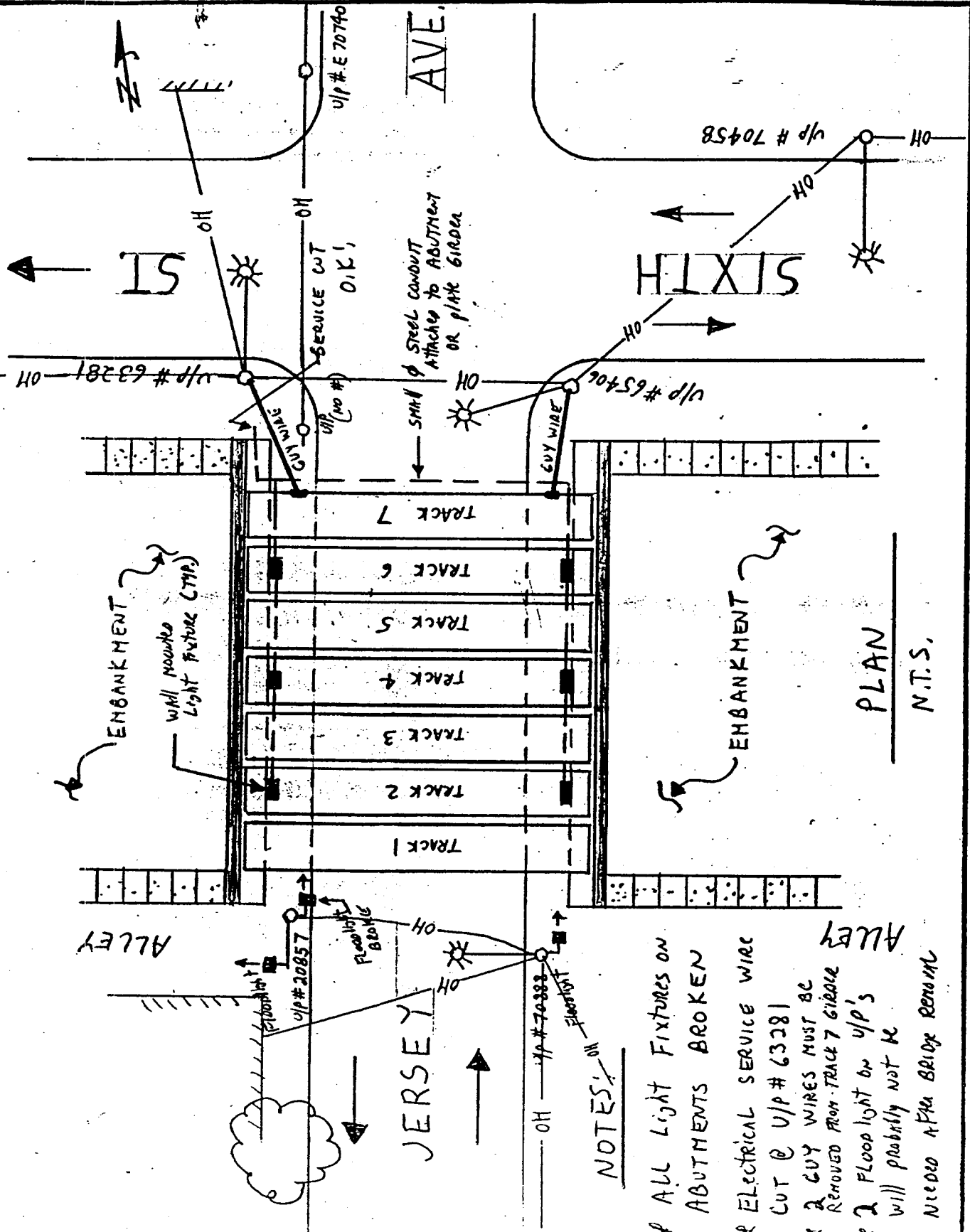
BRIDGE NO. CONRAIL  
JERSEY AVE

DATE AUG 26 & 29, 1994

SHEET 3 of 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J. MUCHA



## NOTES

- ✗ ALL Light Fixtures ON ABUTMENTS BROKEN
- ✗ ELECTRICAL SERVICE WIRE CUT @ U/P # 63281
- ✗ 2 GUY WIRES MUST BE REMOVED FROM TRACK 7 GIRDER
- ✗ 2 FLOODLIGHT ON U/P'S will probably not be needed after bridge removal

# FIELD NOTES

JOB NO. 92-008

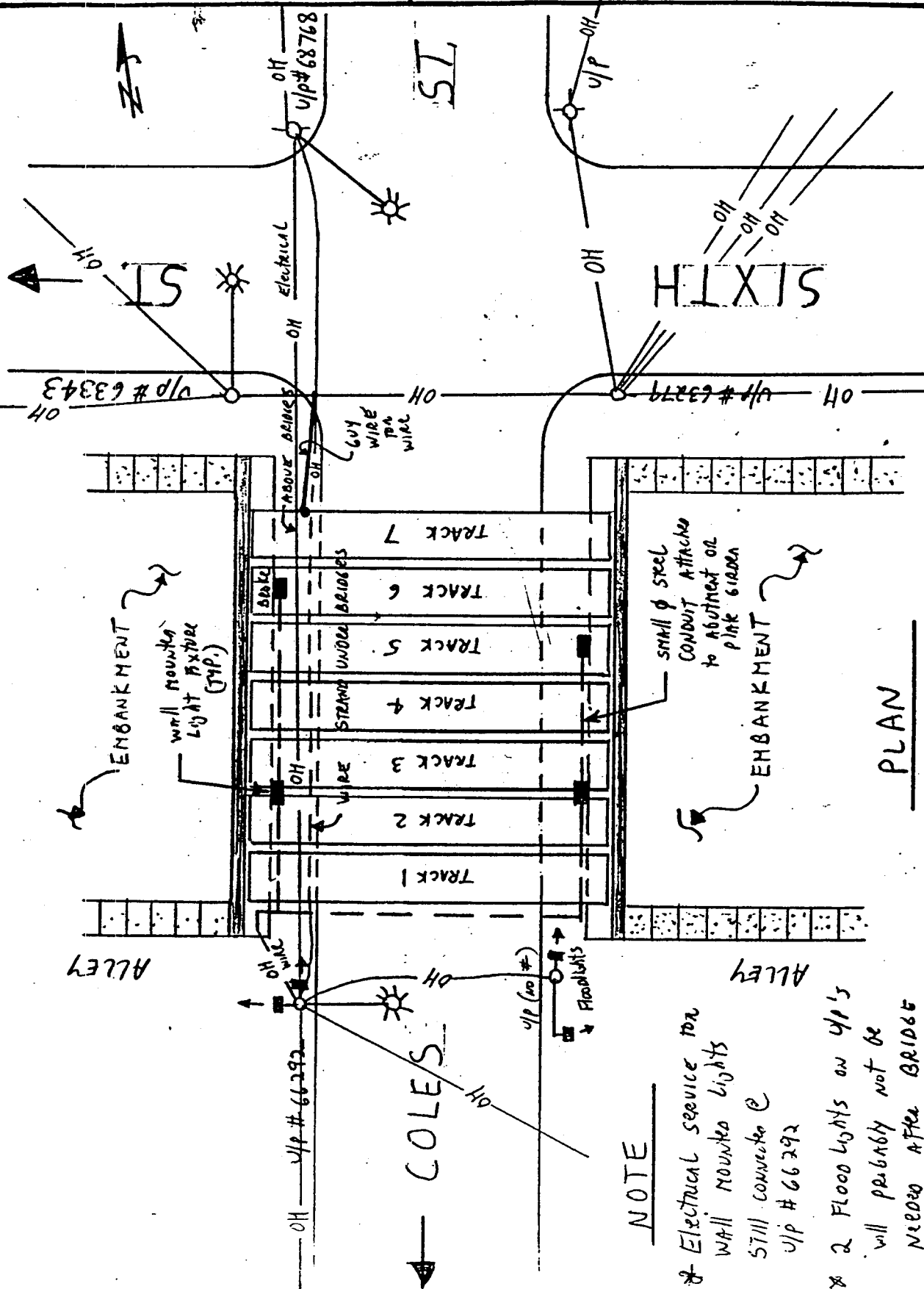
BRIDGE NO.	CONRAIL COLES ST.
------------	----------------------

DATE AUG 26 & 29, 1994

SHEET 4 OF 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J, MUCHA



# PLAN

N.T.S.

NOTE

Electrical service for  
wall mounted lights

Wall Mounted Lights

57111 convexo (2)

1/p # 66292

\* 2 Floor lights on opp's

will probably not be

Nilsson A.Fra BRIDGE

## Removal

\* 1 Guy wire & strand wire under bridge must be removed

# FIELD NOTES

JOB NO. 92-008

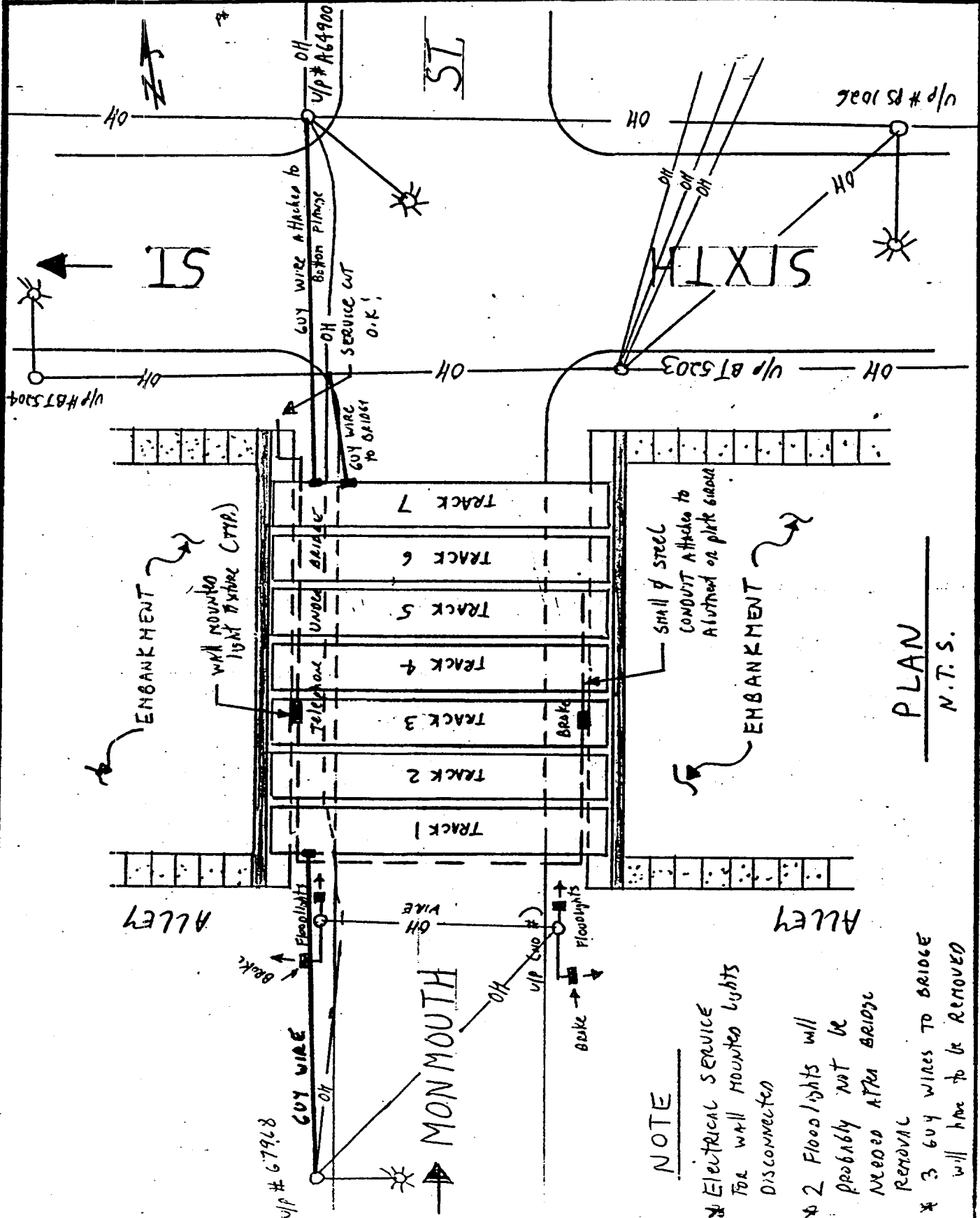
BRIDGE NO. CONRML  
MONMOUTH ST.

DATE AUG 26 & 29, 1994

SHEET 5 OF 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J. MUCHA



PLAN  
N.T.S.

## NOTE

- \* ELECTRICAL SERVICE FOR WALL MOUNTED LIGHTS DISCONNECTED
- \* 2 FLOODLIGHTS WILL PROBABLY NOT BE NEEDED AFTER BRIDGE REMOVAL
- \* 3 GUY WIRES TO BRIDGE WILL HAVE TO BE REMOVED

# FIELD NOTES

JOB NO. 92-008

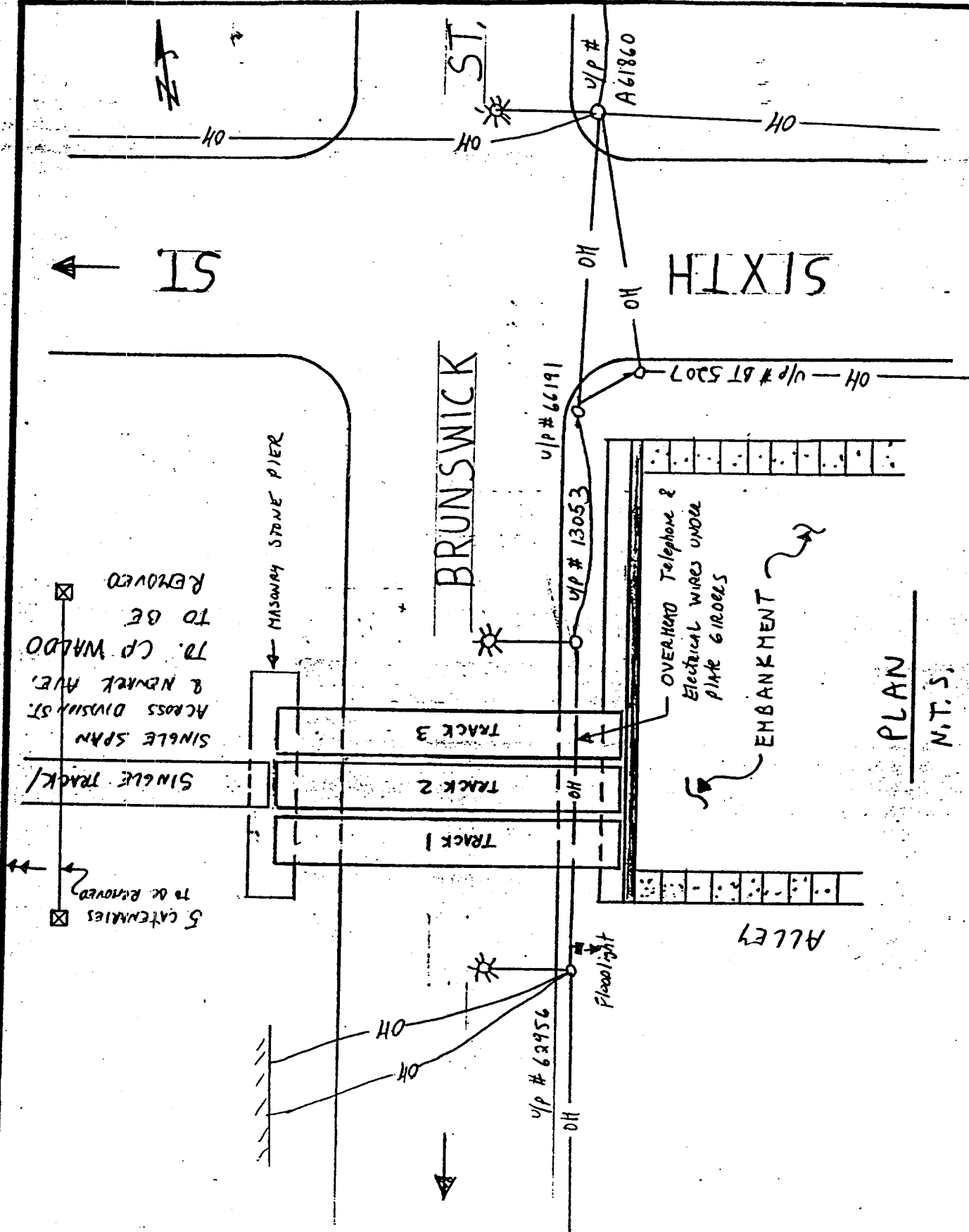
BRIDGE NO. CONRAD  
BRUNSWICK ST.

DATE AUG 26 & 29, 1994

SHEET 6 OF 6

PREPARED BY: JERSEY CITY ENGINEERING

CREW J. MUCHA



RECEIVED

File: 92-008



September 1, 1994

PSE&G  
333 Meadowlands Parkway  
Secaucus, New Jersey 07094

Attention: James Hazell, Senior Commercial Representative

SUBJECT: CONRAIL-6TH STREET VIADUCT

Dear Mr. Hazell,

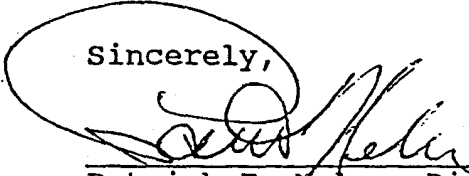
Enclosed herewith, please find correspondence from John Mucha of the Jersey City Engineering Division, and attached sketches concerning the Conrail 6th Street Viaduct, which are self explanatory.

Kindly make arrangements to deactivate any service connections to previously abandoned under deck lighting at the attached locations. All other PSE&G equipment attached to the structures, should be removed as soon as possible.

Apparently, the PSE&G flood lights on the perimeters of the Viaduct will not be necessary after the demolition of the structure. However, the flood lights that are aligned for the adjacent alleyway, should remain in operation.

If you have any questions on the above, do not hesitate to contact me.

Sincerely,

  
Patrick J. Nelan, Director  
Traffic & Transportation

PJN:ds

c John Mucha, Engineering  
Gerald Nissen, Municipal Engineer  
file

**CITY OF JERSEY CITY**

**DIVISION OF ENGINEERING**

**INTERDEPARTMENTAL MEMORANDUM**

**DATE:** August 31, 1994  
**TO:** Pat Nelan, Traffic Engineering  
**FROM:** JOHN MUCHA, P.E., PRINCIPAL ENGINEER  
**SUBJECT:** Removal of Conrail 6th Street Viaduct  
Project No. 92-008

=====

We have conducted an indepth inspection of the underbridge lighting system for the remaining abandoned Conrail Bridges along Sixth Street from Grove Street to Brunswick Street which are being scheduled for demolition and removal (the single spans west from Brunswick Street across Division Street\Newark Avenue to CP Waldo will also be removed). Please refer to the attached sketches of each crossing.

Many of the crossings have wall mounted fixtures that are either broken or disconnected. Some have been replaced with floodlights on utility poles aimed under the bridges of which some are also broken. In addition, many utility poles are anchored with guy wires attached to the bottom flanges of the bridge steel plate girders which must be removed prior to demolition operations.

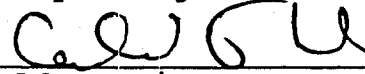
Please review the attached lighting plans at each crossing and contact the marketing division of PSE&G so that they can begin planning for the removal and/or modification of the street lighting system and overhead wires at these bridge locations. By copy of this memo, we are notifying PSE&G Overhead Engineering, NJ Bell and Cable TV of Jersey City about this upcoming demolition project.

All rail from these bridges has now been removed and we are continuing to work with Conrail to secure the removal of these hazardous structures as soon as possible. We have already alerted Conrail that the Grove Street Bridges must be removed prior to the installation of a new Jersey City traffic light at 6th Street and Grove Street tentatively scheduled for October 1994.



We will keep you advised of further developments.

  
\_\_\_\_\_  
JOHN MUCHA, P.E.  
Principal Engineer

  
\_\_\_\_\_  
Gerald J. Nissen, P.E.  
Municipal Engineer

tb

attachments

cc: J.L. McGlynn, P.E., Conrail (Fax 1-609-231-2455)  
Dennis Kreiss, Conrail  
Joe Bova, Conrail  
Don Hewitson, PSE&G Overhead Engineering  
Rick Newsome, NJ Bell Engineer  
Kevin Rooney, Cable TV of Jersey City  
Cheryl Allen-Munley, Asst. Municipal Engineer  
Abdus Safi, P.E., Supervising Engineer

K

COMMISSIONERS  
—  
L. HARVEY SMITH  
CHAIRMAN  
ROBERT GALLAGHER  
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HELEN BRZOSOWSKI  
RUSSELL WALLACE  
WILLIAM A. GAUGHAN  
OREN K. DABNEY



JERSEY CITY REDEVELOPMENT AGENCY

30 MONTGOMERY ST., ROOM 901  
JERSEY CITY, N.J. 07302-3821  
(201) 547-5810  
FAX: (201) 547-4876

EXECUTIVE  
—  
PAUL W. HAMILTON  
EXECUTIVE DIRECTOR  
—  
FRANCIS E. SCHILLER, ESQ.  
GENERAL COUNSEL  
—  
BRET SCHINDLER  
MAYOR

October 29, 1997

Mr. Robert Tracy, Assistant Manager  
CONRAIL Real Estate Field Services  
510 Thornall Street - Suite 390  
Edison, New Jersey 08837

RE: P & H Branch  
Brunswick Street to Marin Boulevard  
Jersey City, New Jersey

Dear Mr. Tracy:

Following up on our August 6th meeting and Conrail's form of License Agreement, please be informed that JCRA is hiring New Jersey licensed professionals to conduct the site investigations which we agreed were necessary, primarily for three reasons.

Two of these result from Conrail's property appraisal approach which relied upon the facts that:

1. the property is "clean," i.e., absent of any pollutants or contaminants in excess of New Jersey Department of Environmental Protection (NJDEP) residential standards, and;
2. demolition, clearance and off-site disposal costs for the removal of the embankments, their abutments, retaining walls and comprising soils, have not been considered.

The third reason for JCRA's site investigation is that Conrail's standard practice is to sell the property with no environmental liability for Conrail, essentially, with an environmental indemnity from the buyer. Consequently, JCRA must perform rigorous due diligence evaluations in order to either satisfy itself of the condition stated and assumed by Conrail in #1 above; or, to bring the information to the contrary, and relative to #2 above, to bear on the negotiation of the price to be paid for the property at closing.

Mr. Robert Tracy  
October 29, 1997  
Page #2

JCRA is about to perform an extensive and costly site investigation and due diligence review in order to negotiate a sales price with Conrail which sets-off the environmental remediation cost, if any, and the demolition and clearance costs from Conrail's appraised value. If this is not Conrail's agreement, please indicate that in writing to me within the next two weeks. By that time JCRA's professional consultants will be commencing the site investigation.

The enclosed License Agreement has been executed on JCRA's part. JCRA's receipt of an original License Agreement with Conrail's signature will be considered by JCRA as acceptance of the terms stated in this letter regarding the negotiation sales price.

As you know, from negotiating with other public governmental bodies, JCRA must be accountable publicly for all of its expenditures and should not be spending potentially up to \$100,000 of public funds in transaction costs alone without a basic understanding with Conrail concerning the business terms and their negotiation.

JCRA looks forward to receipt of the License Agreement and concluding this transaction with Conrail before year's end. With that in mind, please send me Conrail's draft Contract for Sale and call me to schedule to meet in late November, early December to finalize it.

Thank you for your attention to this transaction.

Sincerely,

PAUL W. HAMILTON  
Executive Director

PWH/baa  
Enclosure

L

# *R e p o r t*

*Concerning the Determination of*

*the Proposed*

**SIXTH STREET**

**STUDY AREA**

*as*

*"An Area in Need of Redevelopment"*

*As approved by the Planning Board  
March 10, 1998*

## **I. SURVEY OF CONDITIONS IN THE STUDY AREA**

### **A. Introduction**

The Municipal Council of the City of Jersey City, on April 23, 1997 adopted a resolution authorizing the Jersey City Planning Board to:

1. Conduct a preliminary investigation of the physical and economic conditions of an area known as the Sixth Street Study Area, (hereinafter the "Study Area") to determine whether or not this Study Area meets the statutory criteria necessary to be declared an "area in need of redevelopment" as outlined in NJSA 40A:12A-6 et. seq.
2. Propose a redevelopment plan for this Study Area if it is found to be in need of redevelopment.

### **B. Boundary Description**

The Study Area is comprised of Block: 212 Lot: M, Block: 247 Lot: 50A, Block: 280 Lot: 50A, Block: 317 Lot: 50A, Block: 317 Lot: 50A, Block: 354 Lot: 50A and Block: 389.1 Lot: 50 and the alleys/lanes abutting these parcels to the south and running between Brunswick Street, Monmouth Street, Coles Street and Jersey Avenue. (see attached boundary map).

### **C. Historical Background**

The Study Area consists of the remaining sections of the former elevated tracks that carried freight to and from the northern waterfront of Jersey City, for over a hundred years after their first construction in the 1880's. This viaduct along Sixth Street was the culmination of the general industrialization of the Jersey City waterfront which proceeded apace through the middle decades of the Nineteenth Century. In 1867 the United New Jersey Railroad & Canal Company purchased the waterfront at Harsimus Cove, east of the present Harsimus Cove Historic District. A intricate complex of railroad tracks, freight yards, spurs and sidings grew up to enable the distribution of raw materials and manufactured goods into and out of our City and across New York and Newark Bays. The Pennsylvania Railroad after 1871 controlled the rails and yards of the New Jersey RR & Canal Company. They continued the policy of reclaiming land from the Cove, begun in 1856 by the Long Dock Company and by the 1880's the Harsimus Cove terminal was the largest installation in the harbor. It contained piers, float bridges, elevators, freight houses, warehouses, a stock yard, engine terminal and

storage yard. But this freight terminal, now known as the Harsimus Yards, could not be reached without a lengthy detour by way of temporary tracks along the riverfront. A more direct connection to the main line was not possible until the wall of the Palisades was breached. In anticipation of this opportunity, a right-of-way along Sixth Street was purchased on behalf of the United New Jersey Company by Robert C. Bacot. An engineer, architect and City surveyor, Mr. Bacot must have completed the assembly of this access route before the Pennsylvania came on the scene. A pictorial map of the New York area, drawn for the Harper's Weekly of May 6, 1871, clearly illustrates the rail lines of the N.J. Railroad and other lines in that year, but the Sixth Street right-of-way still lay fallow. But by 1884 the barrier of Palisade rockface was cleaved and the Pennsylvania constructed the first connecting line down the blocks between Fifth and Sixth Streets. These original tracks of the Pennsylvania Railroad Harsimus Branch are depicted on the Fowler- Bromley Atlas of 1887. The pair of elevated tracks coexists with residential lots on the south side of Sixth Street, preventing the rail line from expanding. The Harsimus Branch tracks were enlarged between 1895 and 1905 by construction of a viaduct which eliminated the residences. By the time the Hopkins Plat Book was published in 1908, the full present configuration of six elevated tracks is shown and the houses\lots to the north are gone. By 1890 the Pennsylvania had also elevated its tracks on Railroad Avenue, dominating the streetscape of Downtown Jersey City. But the Sixth Street viaduct was a singular undertaking; as if the stones excised from the Palisades were rolled down the hill and re-assembled. The elevated railbed supported by massive stone retaining walls terminated at Henderson Street, where it adjoined a Yardmaster's office. This Italianate brick structure was still standing at Sixth and Henderson, in 1981, when it was considered by the Phase I Historical Structures Report as having been constructed between 1909 and 1919. Dr. Joseph Brooks of Jersey City Planning Division, primary author of this report, noted in 1981 that the railroad tracks beside the building were elevated to the second story of this now demolished structure.

These tracks were an integral part of the industrialization of Jersey City which was heavily dominated by the railroads. The Pennsylvania Railroad, once it developed its trunk lines into Harsimus Cove, could deliver anthracite and bituminous coal from the Pennsylvania collieries directly to the homes, factories and power plants of the eastern entrepot. Grain and livestock from the heartland were also transported to fill the grain elevators and abattoirs of the northern waterfront. Live cattle and swine were still brought in by this viaduct as late as the mid 1960's. The Swift, Sioux Pork and Armour companies were long associated with Jersey City. Many foodstuffs were reexported not only by rail but upon ships bound across the Atlantic. The City's factories drew more goods and materials in by the Harsimus Branch Main Stem and reexported their value added products by the same Pennsylvania rails.



But the railways were in decline by the 1950's. Commercial aircraft flights and the wide private ownership of automobiles driving on the new interstate highway system took a heavy toll on their passenger traffic. The same highways serviced by the trucking industry encouraged the dispersal of industrial land uses, taking an equally heavy toll from the railway's freight operations. Total freight tonnage transported through the Jersey City waterfront declined from 27,854,983 (1951) to 18,119,361 (1959). Percentage losses in freight tonnages during 1949-1959 were 23%, 44%, 25% and 12% respectively for; Interchange, Lighterage, Local Freight and Tidewater Coal Source: Port of New York Authority

As measured by the Jersey City Planning Division in 1972 for the period 1925-1970, the percentage losses are even starker:

<u>Classification</u>	<u>New Jersey Side</u>	<u>Port of New York</u>
Coal		
Tidewater	70.0%	60.8%
Team Track	90.4	87.5
Perishables	62.2	62.2
Merchandise		
Car Load	33.3	31.2
Less Than Car Load	99.8	99.6

Jersey City did not benefit from the measures taken in the 1960's and 1970's by the railroad companies to meet the challenge of the trucking industry's freight delivery operations. Both corporate mergers and efficiency responses, trailer-on-flat car (TOFC) or container-on-flat car (COFC), left the City with abandoned or disinfested railway acreage. New TOFC-COFC facilities were built in other parts of Hudson County, including Secaucus and Weehawken. The Penn-Central Corporation, which emerged from this period of rail company consolidations, retained control of the Harsimus Branch through the 1970's but eventually abandoned plans to expand operations and attract freight forwarding companies to their Harsimus Cove site. Through the last two decades of our Century, Penn-Central's corporate successor, Conrail, used the line more as an extended siding for its intermodal operations than to deliver goods to our locality. The tracks were last used in 1994.

### C. Local Setting and Transportation Access

The Study Area is located on the site of the former Pennsylvania Railroad freight tracks, known as the Harsimus Branch Main Stem, operated by Conrail since the railroad consolidations of the 1970's. It formerly terminated easterly at the Harsimus Yards of the Pennsylvania Railroad, creating an impenetrable rail yard which impeded

the redevelopment of the northern waterfront for many years. For over a century the elevated railways at Sixth Street, Railroad Avenue (also Penn) and Tenth Street (Erie Lackawanna), together with the commercial streets - Newark, Grove, lower Montgomery - , defined the neighborhoods and industrial districts of Downtown. The Warehouse District was then nestled east of Henderson Street between the two track lines of the Pennsylvania Railroad. As the customers served by the railroads moved from the waterfront and the land uses changed from industrial to commercial and residential, the railroad's properties became a drain on the City's finances and an obstacle to its physical and economic revitalization. Though the line had little purpose with regard to delivering freight to the Waterfront area, after the closing of spurs to the Collate and Manichevitz plants some ten years ago, through the end of 1994, Conrail still relied on it for its function as an extended siding- a giant K turn. Intermodal trains, up to two miles in length, were coupled together by backing sections of cars down from the Croxton yard, west of Tonnele Avenue, all the way down the Harsimus line, until they reached the Harsimus Yard at what is now Metro Plaza. They could then proceed north and continue west to Buffalo and ultimately Oakland, California. As the new Marion Junction came on line, trains could pass directly over the street grid and connect with the tracks west of Tonnele. The Harsimus Line tracks were finally de-commissioned by Conrail in early 1995 and the tracks and bridges once connecting the tracks have been removed. With the abutting lanes included, this site runs 100 feet wide by six city blocks in length presenting a significant swath of vacant land in a densely populated section of downtown Jersey City.

Situated at the bottom of the slope below the crest of the Palisades Ridge, running between two Historic Districts to within 4 blocks west of the Hudson River, the study area is close to the New Jersey Turnpike, US Routes 1 & 9, the Holland Tunnel. It is perpendicularly aligned to the city's major mixed use waterfront development projects and just a few hundred feet from the alignment of the NJ Transit Hudson- Bergen Light Rail transit system, in construction now. The thriving historic neighborhoods of Hamilton Park and Harsimus Cove flank it on the south and north. Its western end joins the Italian Village neighborhood and the parishes of Holy Rosary and Saint Anthony's. Towards the east and north are Hudson Exchange and Newport. A few short blocks south lies the Newark Avenue shopping district which is undergoing its own revival effort with UEZ sponsored facade enhancements and the new adoption of an historic commercial district.

### **Transportation Access**

The Study Area is located near public transportation systems. Numerous bus stops are located on Newark Avenue, Grove Street, Jersey Avenue and Grove Street. The Path stations at Grove Street and Pavonia Avenue are within walking distance. The public transportation systems provide access to points across the city and offer bus and rail connections to points throughout the region.

#### **D. Study Area Characteristics**

Block 212 Lot M contains 30,000 square feet  
Block 247 Lot 50.A contains 40,000 square feet  
Block 280 Lot 50.A contains 38,000 square feet  
Block 317 Lot 50.A contains 38,000 square feet  
Block 354 Lot 50.A contains 38,000 square feet  
Block 389.1 Lot 50 contains 38,000 square feet

The following information on assessment of the Study Area parcels was provided by The Jersey City Tax Assessor.

All of the above - captioned properties are assessed directly by the Director of the Jersey Department of Taxation and have been tax-exempt, in accordance with statute through their years of operation as Class I Railroad property. This designation reflects that the property consists of the main and branch lines of the railroad.

Values for properties are based on several variables: 1) location; 2) topography; and whether or not the property has acceptable access. Also considered are contaminants such as asbestos, PCBs, chromate, etc. However, all six (6) properties total 192,000 square feet. Even if a minimal value of \$5.00 per square foot were placed on all six lots, the total assessment would be \$960,000 with taxes of \$40,176. This is based on the 1997 Tax rate for Jersey City of \$41.85 per \$1,000.00 of assessed value.

Each property would have to be thoroughly inspected to determine if any of the above mentioned problems exist to put a fair and accurate value on each individual site.

For comparison purposes, three blocks were chosen, at random, from three separate and distinct areas of the City- one in the Heights, one in Downtown and one in Greenville. The total area of these three blocks was calculated and then divided into the total assessed value of each block, yielding a per square foot taxable value number. The results are summarized below.

Table 1.

Comparison of Per Square Foot Property Values

	Heights Block 811	Downtown Block 277	Greenville Block 1369	Study Area
Size in Square Feet	137,379 sq. ft.	78,875 sq. ft.	83,411 sq. ft.	192,000 sq. ft.
Total Assessed Value (Land and Buildings)	\$7,545,900	\$5,409,000	\$2,651,500	\$960,000
Value per Square Foot of Property	\$54.93	\$68.58	\$31.79	\$5.00

Each tax lot is covered 100% at the base by the stone retaining walls of the former viaduct.

The Study Area contains 4.4 acres of land.

Massive stone retaining walls enclose earthen berms on four sides of each block long section. The westernmost blocks have a secondary, stepped in wall and reach heights over 40 feet. The easternmost block is no more than 25 feet in height with parts of the former wall removed from the sections near Marin Blvd. The walls consist of both basalt and sandstone blocks of various dimensions and irregular placement. Stones as large as 6 feet by 4 feet are interspersed with some as narrow as 18 inches by 24 inches. Weeds cover almost all the exposed soil atop the berming. The entire perimeter of each block's upper surface is enclosed by 6 foot cyclone fencing. There is also a complete path of alleys running the entire length of the embankment's southern wall from Brunswick Street through Jersey Avenue.

## II. CRITERIA FOR DETERMINATION OF NEED FOR REDEVELOPMENT

The Study Area may be determined to be in need of redevelopment if, after investigation notice and hearing, as provided within NJSA 40A:12A-6, the governing body concludes by resolution that within the study area, any of the following conditions are found:

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent; possess any of such characteristics, or are so lacking in light, air or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A) and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L. 1991, c.431. (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L. 1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L. 1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

### III. REVIEW AND CONCLUSIONS

A review of the unique characteristics of the Study Area indicates that it qualifies as "area in need of redevelopment" as defined by NJSA 40A:12A-5, meeting the criteria of subsections b, d and e.

Although subsection "b" refers to buildings, not vacant land, it is applicable to this particular site since it is a walled edifice of considerable height and width enclosing a huge volume of packed landfill. This railway bed, which was once a considerable contributor to the commercial, manufacturing and industrial base of the City and region has now been abandoned. Its former use is no longer viable for this location and there is no possibility of reclaiming the site for this purpose. This great deficit of utility is exactly that envisioned in the statute in subsection "b".

The Study Area also meets the criteria outlined in subsection "d" since the primary transportation function of the right of way has effectively been discontinued. This subsection refers to ".....improvements which, by reason of dilapidation, obsolescence,.....faulty arrangement or design,.....excessive land coverage, deleterious land use or obsolete layout.....are detrimental to the safety and welfare of the community." It is rather evident that the present condition of the viaduct's raised earthen ramparts meets all the above criteria of this subsection of the statute. Measurements confirm these lots are covered 100% by the railway stone walled viaduct. The longer these massive viaducts remain abandoned and unimproved, the more deleterious they will become to the public safety. Lack of determined maintenance will eventually create hazards from dislodged wood, metal or stone elements. The soils will likely subside and expand through severe weather cycles and then spill over the walls as mud or ice blocks. Weeds are already growing on the slopes creating opportunities for vermin and allergens. There can also be no doubt that this site will become an attractive nuisance that will entice adventurous youngsters to climb upon them and court disaster with careless behavior. Some sections are 25 feet high but there are likely hidden hazards on top of the mounds themselves. The common expectation that youths will eventually hurl objects down on cars and passersby below should not be discounted. All these above cited conditions are magnified by the traffic congestion, so evident in this study area, heading toward the riverfront as well as the tunnel. They clearly satisfy the statutory criteria of subsection "d" as evidence that the area is in need of redevelopment.

Subsection "e", which talks about a growing lack of proper utilization of areas caused by condition of title or other conditions resulting in stagnant or not fully productive condition of lands potentially useful and valuable for contributing to and serving the public health safety and welfare, can apply to this study area. You can find that the condition of title and the ownership of real property by a railroad entity has resulted in the stagnation of this study area. The land is clearly not fully productive. These properties

are owned by Conrail, which is a major corporation that has certain restrictions in its ability to function because of their potential sale that's coming up to CXS. Another functional restriction of Conrail relates to why it was formed some 15 to 20 years ago to provide a service and that is no longer viable in this study area or general waterfront vicinity.

In addition, Block 212, Lot M is presently part of the Luis Munoz Marin Blvd Redevelopment Plan area and Block 247 Lot 50.A is presently part of the Grove St Redevelopment Plan Area and they are already designated as "areas in need of redevelopment". As part of this study it is recommended that they be taken out of the redevelopment plan districts and made part of the Sixth Street Study area and Sixth Street Redevelopment Plan area.

Based on the conclusions reached above, we find that the Study Area meets the statutory criteria as per NJSA 40A:12A-5, subsections b,d and e to be declared an "area in need of redevelopment" and we recommend that it be declared such in order to expedite its productive return to economic reuse.

We further recommend the adoption of a redevelopment plan outlining a program of rehabilitation to eliminate sub-standard conditions, arrest the deterioration of this steel walled viaduct and provide for an alternative re-use which will promote the overall development of the Study Area and surrounding community.

Respectfully submitted,

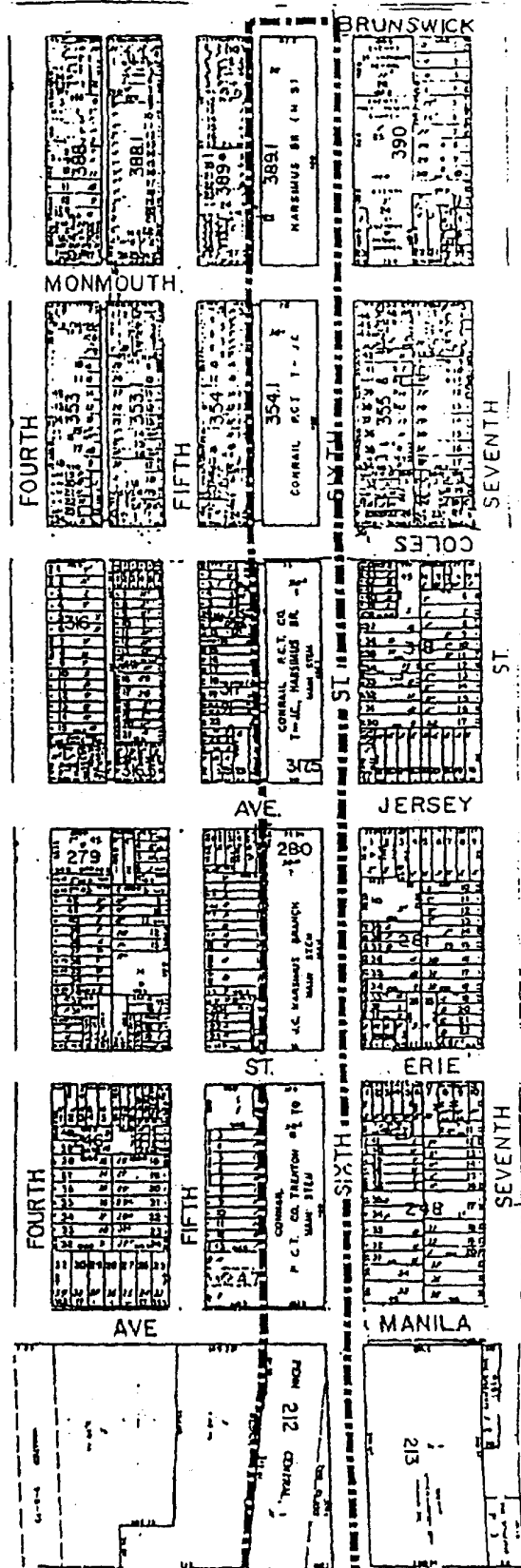
Robert D. Cotter, PP, AICP  
Director of City Planning Division

G:\REPLANS\6THST.BL2

# BOUNDARY MAP



Date: 1997





M

*Please Answer  
1999-05-19  
Bob C*



# State of New Jersey

PLANNING & ECONOMIC DEVELOPMENT  
DIRECTOR'S OFFICE

Christine Todd Whitman  
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.  
Commissioner

Division of Parks & Forestry  
Historic Preservation Office  
PO Box 404

Trenton, N.J. 08625-0404

TEL: (609)252-2023

FAX: (609)984-0578

May 6, 1999

Honorable Bret Schundler  
Mayor, Jersey City  
City Hall  
280 Grove Street  
Jersey City, NJ 07302

Dear Mayor Schundler:

We are pleased to inform you that the Pennsylvania Railroad Harsimus Branch Embankment, 163-351 Sixth Street, Jersey City, Hudson County will be considered by the New Jersey State Review Board for Historic Sites for nomination to the New Jersey and National Registers of Historic Places. The railroad embankment occupies Block 212; Block 247, Lot 50A; Block 280, Lot 50A; Block 317.5; Block 354.1; Block 389.1.

The New Jersey and National Registers are official lists of historic properties worthy of preservation. Listing in both Registers provides recognition and assists in preserving our Nation's heritage.

Listing provides recognition of the community's historic importance and assures protective review of public projects that might adversely affect the character of the historic property. If the Pennsylvania Railroad Harsimus Branch Embankment is listed in the National Register, certain Federal investment tax credits for rehabilitation and other provisions may apply.

For private property owners, listing in the New Jersey and National Registers does not mean that limitations will be placed on the properties by the State or Federal governments. Within the limits of municipal zoning laws, private property owners are free to utilize, renovate, alter, sell or demolish their properties. Public visitation rights are not required of owners nor will the State or Federal governments attach restrictive covenants to the properties or seek to acquire them.

All public undertakings affecting registered properties are subject to review and approval in accordance with New Jersey State Register Law. We would therefore recommend that the

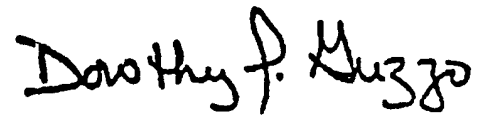
county freeholder's office and municipal government forward copies of this letter to those offices within their jurisdiction that would benefit from this information including the planning board, engineer's office and historic preservation commission.

You are invited to attend the New Jersey State Review Board meeting on June 9, 1999 at which time the nomination will be considered. The meeting is scheduled to begin at 10:00 a.m. in the fourth floor conference room of Station Plaza 5, 501 East State Street, Trenton, New Jersey.

Attached please find a notice that explains, in greater detail, the results of listing in the New Jersey and National Registers and that describes the rights and procedures by which an owner may comment on or object to listing.

Should you have any questions about this nomination, please contact this office. If you are planning to attend the State Review Board meeting, please call to confirm time and meeting place.

Sincerely,



Dorothy P. Guzzo  
Administrator

c: Mr. Robert Byrne, City Clerk  
Ms. Annemarie Uebbing, Assistant Director, Dept. of Housing,  
Economic Development. & Commerce  
Enclosure

2

# CITY OF JERSEY CITY

BRET SCHUNDLER  
MAYOR



CITY HALL  
JERSEY CITY, NJ 07302  
(201) 547-5200

April 21, 1997


Robert Tracy  
Property Manager  
Conrail  
510 Thornall Street  
Edison, New Jersey 08837

Dear Mr. Tracy:

The City of Jersey City would like to formalize its interest in acquiring property owned by Conrail in the Sixth Street corridor. Specifically, the City is interested in the elevated right-of-way from Newark Avenue to Marin Boulevard. We consider this to be an integral part of Jersey City's downtown neighborhood and toward that end would like to maximize its reuse benefits for Jersey City. There are several different development proposals envisioned by the City, most of which would require utilizing all of the right-of-way. As a result, the City is interested in acquiring the right-of-way in its entirety.

Upon your consideration of my request, please contact Elizabeth Jeffery, Director of the Economic Development Division to discuss further actions necessary to advance this proposal. On behalf of the citizens of Jersey City, I thank you for your continued relationship with the City and efforts to assist us in enhancing the quality of our neighborhoods.

Sincerely,



Bret Schundler,  
Mayor

cc: Ervin L. Haynes, Director, Department of Housing and Economic Development  
Elizabeth Jeffery, Director, Division of Economic Development  
Gerald Nissen, Director, Division of Engineering  
Cheryl Allen-Munley, Assistant Director, Division of Engineering  
Joanne Monahan, Assistant Corporation Counsel  
Robert Cotter, Director, Division of Planning  
Colleen Yewaisis, Division of Economic Development

N

JUN 4 1999 3:20PM  
**CONRAIL**

NO. 2049 JUN 07 1999

TIMOTHY T. O'TOOLE  
PRESIDENT AND  
CHIEF EXECUTIVE OFFICER

June 4, 1999

Ms. Dorothy P. Guzzo, Administrator  
State of New Jersey  
Department of Environmental Protection  
Historic Preservation Office  
P. O. Box 404  
Trenton, NJ 080025-0404

Re: Pennsylvania Railroad Harsimus Branch Embankment  
163-351 Sixth Street  
June 9th State Review Board Meeting

Dear Administrator Guzzo:

Conrail, the owner of the Pennsylvania Railroad Harsimus Branch Embankment, objects to the listing of the Embankment on the New Jersey and National Registers of Historic Places. Conrail is a joint subsidiary of CSX Corporation and Norfolk Southern Corporation. The railroad occupies Block 21; Block 247, Lot 50A; Block 280, Lot 50A; Block 317.5; Block 345.1, and Block 389.1.

When originally constructed, the Embankment was part of a unified railroad structure that carried freight trains to the Jersey City waterfront. The unified railroad structure consisted not only of the presently existing embankment walls and fill, but steel bridges connecting each individual embankment, tracks or rail and ancillary structures and equipment.

Conrail ceased freight operations along the Embankment years ago. In or about 1996, Conrail removed the steel bridges, tracks and ancillary structures and equipment. Since then, the individual embankment properties have not been physically connected to each another and have served no railroad or other practical or useful function.

Administrator Dorothy P. Guzzo  
June 4, 1999  
Page 2

Because these properties no longer have a railroad purpose, Conrail wishes to realize their real estate value. The Company also wishes to be relieved of its obligations as owner of these properties, which includes tax liabilities, the costs of maintenance and any potential liabilities to or caused by third person trespassers or vandals. As a result, it has been our intention to sell all the embankment properties and we are in the process of negotiating a sale of these parcels to the Jersey City Redevelopment Agency (JCRA).

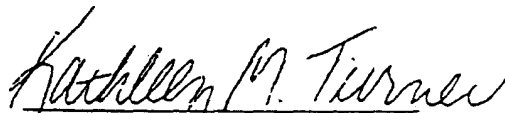
It is our understanding that if a government agency owns a site that has been listed on the New Jersey Register of Historic Places, that agency cannot alter the site without approval from the New Jersey Commissioner of Environmental Protection. Imposition of such a condition on the embankment properties will have the effect of substantially reducing their present value.

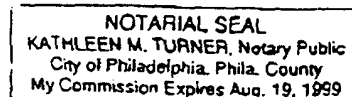
For all these reasons, Conrail, as owner of the Embankment, objects to its listing on the New Jersey and National Registers of Historic Places. Please be advised that CSX Corporation and Norfolk Southern Corporation, the joint owners of Conrail, are in agreement with and support this statement of objections.

Sincerely,

  
Timothy T. O'Toole

Sworn to and subscribed before  
me this 4th day June, 1999

  
Kathleen M. Turner  
Notary Public



**CONRAIL®**

T. O' Toob-

17-N



Ms. Dorothy P. Guzzo, Administrator  
State of New Jersey  
Department of Environmental Protection  
Historic Preservation Office  
P. O. Box 404  
Trenton, NJ 080025-0404



O

CITY OF  
**JERSEY CITY**

**BRET SCHUNDLER**  
MAYOR



CITY HALL  
JERSEY CITY, NJ 07302  
(201) 547-5200

July 7, 1999

Jarnes Hall  
Department of Environmental Protection  
State of New Jersey  
Assistant Commissioner for Natural and Historic Resources  
P.O. Box 402  
Trenton, New Jersey 08625

**Re: State Review Board Hearing on the Sixth Street Embankment**

Dear Mr. Hall:

Please accept this letter as a formal objection by the City of Jersey City to the nomination of the Sixth Street Embankment to the State Historic Register by the State Review Hearing Board on June 9, 1999. It is my understanding that the Board's jurisdiction is limited to determine historic eligibility of a site, yet during the hearing there was no specific discussion of eligibility criteria, nor was there any discussion of the presentation of the City's consultant, Dr. Michael Alterman of Louis Berger Associates, as to the lack of historic significance of this site.

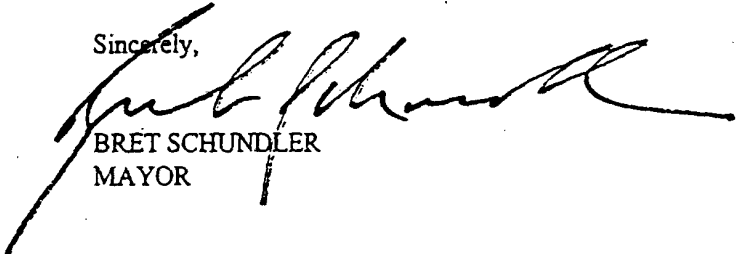
Dr. Alterman's extremely detailed presentation specifically addressed the issue of historic significance of this site. We fail to understand why the Board seemed to completely disregard the merits of the points he raised. In fact, according to my staff, there was no discussion at all relative to Dr. Alterman's presentation on behalf of the City. The attached summary represents the City's specific concerns as to what occurred at the hearing.

As you know, Jersey City celebrates its rich history and has worked hard to preserve significant structures which represent our history, including: the Apple Tree House, P.S. #2, and the Loews Theater. However, we respectfully disagree with the Board's opinion regarding the eligibility of this site. At a minimum, the Board should have considered alternatives to wholesale preservation of the embankment, including: partial preservation of the structure, or the creation of a historic park, as suggested by Jersey City. The fact that Board members were impressed with the preservation sentiment expressed by a select group of residents is irrelevant as to whether the embankment is legally "eligible" to be placed on the Historic Register.

James Hall  
Page 2  
July 7, 1999

After reviewing these facts, I am confident you will agree that the Sixth Street Embankment should not be placed on the State and National Historic Registers due to its ineligibility under the National Register Criteria for Evaluation. Thank you for your consideration of this request. If you would like to discuss this matter in further detail or visit the site, please contact me at (201) 547-5500.

Sincerely,



BRÉT SCHUNDLER  
MAYOR

BS:TG:jmt  
Enclosure  
cc: Dorothy Guzzo

## OBJECTIONS

1. Pursuant to the Public Comment Guidelines, Dr. Michael Alterman, the City's consultant, gave a photographic slide presentation and expert testimony regarding facts that were not included in the nomination application. Dr. Alterman explained to the Board how the Embankment no longer serves its function to support a freight line; tracks and connecting bridges have been removed and the Harsimus Cove freight yards have been replaced by the flourishing Newport development. He stressed the fact that over the past thirty years, the Embankment has suffered from lack of maintenance and intrusive vegetation. He showed photographic slides of some portions of the remaining Embankment that are severely deteriorated and which show evidence of vandalism on the stonework and trespassing on the top of the Embankment. Photographic slides of other railroad embankments within Jersey City and surrounding communities demonstrated the Sixth Street Embankment's lack of distinction as an architectural feature. Despite this expert testimony and photographic slide presentation, the State Review Board did not ask any questions of Dr. Alterman or discuss his presentation, as they had stated that they would do prior to the Hearing.
2. The nomination application indicated that the Embankment forms a connection between two historic districts, Harsimus Cove and Hamilton Park. Yet historically this is incorrect. Rather than forming a link with either the Harsimus Cove or Hamilton Park Historic Districts, the Embankment was built with total disregard for the surrounding residential neighborhoods, its purpose being to transport freight as efficiently as possible through this area to the waterfront yards. Construction of the Harsimus Branch freight line and the Embankment specifically created a barrier, rather than a link, between the historic residential neighborhoods.
3. Prior to the commencement of the Hearing, the staff of the State Review Board distributed Public Comment Guidelines to everyone who attended the Hearing. Pursuant to Paragraph Two of the Guidelines, public comment must only address issues within the Board's jurisdiction in evaluating nominations. Subjects which the Board may not consider in its evaluation are economic issues or any other issue that does not directly address the National Register Criteria for Evaluation. Despite this language, the State Review Board allowed members of the Embankment Preservation Coalition to discuss economic issues and other issues which did not address the Criteria for Evaluation. For example, a member of the Coalition tainted the hearing by inaccurately stating that the study by Louis Berger & Associates, Inc. dealt solely with redevelopment of the Embankment.
4. In their report, Louis Berger & Associates, Inc. included a conclusions and recommendations section that deals with the project area on a block-by-block basis. Based upon an evaluation of an array of historic resource, architectural and aesthetic, engineering, environmental, socioeconomic, and development economic factors, this section concludes on a block-by-block basis what should be the major goals and preferred design choices for any redevelopment activity. For example, Block 212, which runs from Luis Munoz Marin Boulevard to Manila Avenue, contains the smallest and most seriously deteriorated section of the six-block embankment. It was determined that reconstruction of the embankment on this block was neither feasible nor prudent from many perspectives, including historic preservation. Photographic slides of the severe deterioration of this block were shown to the Board. Despite this block-by-block analysis of the Embankment and the photographic slides of the deterioration of this portion of the Embankment, there was no discussion among members of the Board regarding possible boundaries of the Embankment for placement on the State and National Historic Registers.
5. The City of Jersey City requested that Louis Berger & Associates, Inc. examine the feasibility of

6. The Deputy Attorney General (DAG) at the Hearing was Valerie Gray. She serves as the DAG for both the Historic Preservation Office (HPO) and for the State Review Board. We were informed by Sue Pringle of the HPO that Valerie Gray does not serve as a member of the Board, but is present at such meetings in purely an advisory capacity. At the Hearing, the DAG commented that she lived near the Embankment in her youth and made several improper comments to the Board regarding her opinion that the Embankment was a great structure and worthy of preservation
7. The National Register of Historic Places Registration Form was principally prepared by Richard A. James, who resides at 226 Fifth Street, Jersey City, New Jersey, which borders the embankment. He prepared the Form with the assistance of Bob Craig, a Historic Preservation Specialist with the New Jersey Historic Preservation Office (HPO). Mr. Charles Scott, a Principal Historic Preservation Specialist from the HPO, made the presentation before the State Review Board. A possible explanation as to why he made the presentation, rather than Mr. James, could be that a conflict of interest exists because Mr. James owns a residence within two hundred feet of the Embankment.

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# FINAL REPORT

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## SIXTH STREET RAILROAD EMBANKMENT STUDY

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*Prepared for:*

**City of Jersey City**

**Department of Housing and Economic Development**



*Prepared by:*

**Louis Berger & Associates, Inc.**

**East Orange, NJ**



*In Association With:*

**Li-Saltzman Architects, P.C.**

**New York, NY**

**July 1999**



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Q



## State of New Jersey

Christine Todd Whitman  
Governor

Department of Environmental Protection  
Division of Parks & Forestry  
Historic Preservation Office  
PO Box 404  
Trenton, NJ 08625-0404  
TEL: (609)292-2023  
FAX: (609)984-0578

Robert C. Shinn, Jr.  
Commissioner

January 25, 2000

Consolidated RR  
P.O. Box 8499  
Philadelphia, PA 19101-8499

Dear Property Owner:

I am pleased to inform you that the Pennsylvania Railroad Harsimus Branch Embankment, 163-351 Sixth Street, Jersey City, Hudson County was entered onto the New Jersey Register of Historic Places on December 29, 1999. In accordance with N.J.S.A. 13:1B-15.131, listing of an area, site, structure or object on the New Jersey Register of Historic Places prevents the State, a county, municipality or any of their agencies or instrumentalities from undertaking any project that will encroach upon, damage or destroy the property listed without approval from the Commissioner of the Department of Environmental Protection.

The application for the Pennsylvania Railroad Harsimus Branch Embankment was favorably received by the State Review Board for Historic Sites and was subsequently signed onto the New Jersey Register by the State Historic Preservation Officer. It will now be sent to the National Park Service, U.S. Department of the Interior, Washington, D.C. to be considered for inclusion in the National Register of Historic Places. The Historic Preservation Office will inform you when we receive notification from the National Register Office that the Pennsylvania Railroad Harsimus Branch Embankment has been entered onto the National Register.

Congratulations.

Sincerely,

Dorothy P. Guzzo  
Administrator

R



510 Thornall St., Suite 390  
Edison, NJ 08837  
(732) 906-3015 - voice  
(732) 549-7926 - fax

December 21, 2001

Jerome M. Killeen  
Jersey City Redevelopment Agency  
30 Montgomery Street  
Jersey City, NJ 07302

Re: Case 72931, Jersey City, Hudson County, NJ – Proposed sale of former  
Conrail Right of Way along 6<sup>th</sup> Street from just west of Newark Avenue  
to Luis Munoz Marin Boulevard

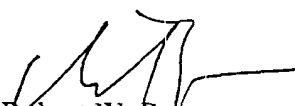
Dear Mr.Killeen:

Consolidated Rail Corporation is considering sale of 6.2 acres, more or less, of property described on the attached Exhibit A and shown on the accompanying Case Plan dated December 21, 2001. Our records indicate that you have previously expressed an interest in purchasing this property. It is the purpose of this letter to clarify whether you are still interested, and if so, whether you are willing to proceed under the terms and conditions to follow. If we have no affirmative response from you by January 31, 2002, we will assume you are no longer interested in the property.

We will recommend sale of the 6.2 acres, more or less, to the qualified buyer who is willing to submit its highest and best offer, at a minimum consideration of \$3,000,000., in a sealed bid which must be received by close of business on February 28, 2002. Conrail, in its sole judgment, reserves the right to reject any and all offers. Conrail will quitclaim whatever right, title and interest we have in this property, with all expenses of sale, including survey and title costs, being the responsibility of Purchaser. The property will be sold "as is" using our standard sale document package. A due diligence period of 60 days will be permitted for the successful bidder to perform any necessary due diligence activities it may deem necessary. The property sale will be subject to Conrail Board of Directors final approval and must close by June 30, 2002.

If you are interested in proceeding along the lines outlined above, please advise and we will arrange to produce the sale document package and send it to you for execution and submission of your bid. We expect the document packages to be mailed out during the week of January 7, 2002. If you have any questions, please do not hesitate to let us know.

Sincerely,

  
Robert W. Ryan  
Director, Real Estate

UNITED STATES POSTAL SERVICE



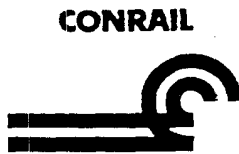
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• Sender: Please print your name, address, and ZIP+4 in this box •

Bob Ryan  
Lenn  
510 Tichenall St. # 390  
Edison NJ

7002 0320 0000 0548 6257

S



510 Thornall St., Suite 390  
Edison, NJ 08837  
(732) 906-3015 - voice  
(732) 549-7926 - fax

October 24, 2002

Office of the Executive Director  
Jersey City Redevelopment Agency  
30 Montgomery Street  
Jersey City, NJ 07302

Re: Case 72931, Jersey City, Hudson County, NJ – Proposed sale of former  
Conrail Right of Way along 6<sup>th</sup> Street from just west of Newark Avenue  
to Luis Munoz Marin Boulevard

Dear Executive Director:

Consolidated Rail Corporation is considering the sale of 6.2 acres, more or less, of land and any improvements thereon, as described on the attached Exhibit A and shown on the accompanying plan dated October 18, 2002 (the "Property"). Our records indicate you have previously expressed an interest in purchasing this Property.

We will recommend sale of the 6.2 acres, more or less, to the qualified buyer who is willing to submit its highest and best offer, at a minimum consideration of \$3,000,000, in a sealed bid which must be received by close of business on January 21, 2003. Conrail, in its sole judgment, reserves the right to reject any and all offers. The successful bid will be subject to final review and approval by Conrail's Board of Directors and, if approved, must close by June 30, 2003.

Conrail will quitclaim its right, title and interest in this Property, with all expenses of sale, including survey, title, and due diligence costs, being the responsibility of the successful bidder. The Property will be sold "as is" using Conrail's standard sale document package, which is enclosed. A reasonable due diligence period will be permitted for the successful bidder to perform any necessary and agreed upon due diligence activities following signature of an Agreement of Sale by Conrail. The successful bidder will be required to execute Conrail's standard temporary license prior to entering upon Conrail's Property for such purposes.

Attached you will find instructions for submitting a sealed bid for our review and consideration. Please follow the instructions carefully and return your sealed bid in the envelope provided therefor. If you have any questions, please do not hesitate to let us know. Thank you for your interest in Conrail's Property.

Sincerely,

Robert W. Ryan  
Director, Real Estate



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SHIPPER'S UPS ACCOUNT NO. 08334X

REFERENCE NUMBER #201

NAME Case # 71431 TELEPHONE 732-906-3010

COMPANY CONRAIL/REAL ESTATE

STREET ADDRESS 510 THORNALL ST STE 390

CITY AND STATE EDISON NJ ZIP CODE 08837

2 DELIVERY TO NAME TELEPHONE

NAME Robert Ryan (732) 906-3015

COMPANY Conrail

STREET ADDRESS 510 Thornall St #390 DEPT. FLR

CITY AND STATE Edison N.J. ZIP CODE 08837

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5 SATURDAY PICKUP \$

OPTIONAL SERVICES INSURED VALUE \$ AMOUNT \$

C.O.D. \$ AMOUNT \$

6 ADDITIONAL HANDLING CHARGE \$

TOTAL CHARGES \$

7 METHOD OF PAYMENT

8 RECEIVERS / THIRD PARTYS UPS ACCT. NO. OR MAJOR CREDIT CARD NO. EXPIRATION DATE

THIRD PARTYS COMPANY NAME

STREET ADDRESS

CITY AND STATE ZIP CODE

SHIPPER'S SIGNATURE X DATE OF SHIPMENT

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**UPS 2nd Day Air**  
Shipping Document

See instructions on back. Call 1-800-PICK-UPS (800-742-5877) for additional information.

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SHIPPER'S UPS ACCOUNT NO. 08334X

REFERENCE NUMBER #201

NAME Case # 71431 TELEPHONE 732-906-3010

COMPANY Robert Ryan

CONRAIL/REAL ESTATE

STREET ADDRESS 510 THORNALL ST STE 390

CITY AND STATE EDISON NJ ZIP CODE 08837

2 DELIVERY TO NAME TELEPHONE

NAME Executive Director (201) 547-4876

COMPANY Jersey City Redevelopment

STREET ADDRESS 30 Montgomery St. DEPT. FLR

CITY AND STATE Jersey City N.J. ZIP CODE 07302

Jersey City N.J. 07302

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5 SATURDAY PICKUP \$

OPTIONAL SERVICES INSURED VALUE \$ AMOUNT \$

C.O.D. \$ AMOUNT \$

6 ADDITIONAL HANDLING CHARGE \$

TOTAL CHARGES \$

7 METHOD OF PAYMENT

8 RECEIVERS / THIRD PARTYS UPS ACCT. NO. OR MAJOR CREDIT CARD NO. EXPIRATION DATE

THIRD PARTYS COMPANY NAME

STREET ADDRESS

CITY AND STATE ZIP CODE

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## JERSEY CITY REDEVELOPMENT AGENCY


October 28, 2002

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### Inter-Office Memorandum

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TO: Mark Munley, Director HEDC

FROM: Barbara A. Netchert, Acting Executive Director 

SUBJECT: 6th Street Embankment (Conrail ROW)

---

As mentioned in our Staff Meeting of this morning, attached for your information and perusal is the bid solicitation letter received from Conrail with regard to the above property. Minimum bid price is \$3,000,000. I know the JCRA is not interested in bidding on this property. I presume that the City has no interest either at this point but felt you should see the attached. Should you wish to see the balance of the package referred to in the letter, just let me know.

Thanks.

cc: Sandy Greenberg  
Bob Cotter

U

# WSFR®

WATSON, STEVENS, FIORILLA & RUTTER, LLP

Attorneys At Law

Representing clients with vigor and integrity.

*File  
6<sup>th</sup> St. Embankment*

JAN 14 2003

John K. Fiorilla  
JFiorillo@WSFR.net  
Michael K. Rutter  
MRutter@WSFR.net

Mark Stevens  
MStevens@WSFR.net

Carol A. Stevens  
CStevens@WSFR.net  
Member also NY Bar

David P. Brook  
DBrook@WSFR.net  
Member also PA Bar

Christine A. Roy  
CRoy@WSFR.net

Irene M. Zancos  
IZancos@WSFR.net  
Member also NY Bar

Of Counsel

Joseph Stevens  
JStevens@WSFR.net

Russell E. Watson (1909-1970)  
A. Dudley Watson (1917-1990)  
Edward L. Webster, Jr. (1950-1987)

January 13, 2003

Office of the Executive Director  
Jersey City Redevelopment Agency  
30 Montgomery Street  
Jersey City, NJ 07502

*Re: Prospective Bidders on Conrail Right of Way along 6<sup>th</sup> Street west of Newark Avenue to Luis Munoz Marin Boulevard in the City of Jersey City, County of Hudson, New Jersey*

Dear Sir or Madam:

This firm represents the Consolidated Rail Corporation which recently sent you sealed bid instructions for making an offer to purchase the above captioned Conrail property.

Please be advised that on January 8, 2003, the Jersey City, New Jersey City Council proposed an Ordinance which was given its first reading which would provide that six of the eight parcels which comprise the property which Conrail is selling would be declared a historic landmark. A copy of the proposed ordinance is enclosed herewith. If the ordinance is adopted it would require a developer to obtain the consent of the Jersey City Historic Preservation Commission to proceed with development.

Page Two  
January 13, 2002

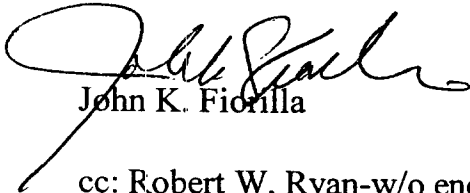
Please note that a public hearing on this ordinance is now scheduled for the evening of February 11, 2003.

Conrail will cooperate with the successful bidder in its efforts to obtain development rights of the property in question and will participate at any hearings with the City if requested by the successful bidder.

If you have any questions regarding this matter, please call the undersigned or Robert Ryan at Conrail at 732-906-3015 or fax your questions to Mr. Ryan at 732-549-7926.

Thank you for your time and attention.

Sincerely,



John K. Fiorilla

cc: Robert W. Ryan-w/o enclosures

City Clerk File No. Ord. 03-010Agenda No. 3.7 - 1st ReadingAgenda No.                      2nd Reading & Final Passage

## ORDINANCE OF JERSEY CITY, N.J.



COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 03-010

**TITLE: ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO THE CITY CODE CHAPTER 345, LAND  
DEVELOPMENT ORDINANCE, ARTICLE 30, HISTORIC PRESERVATION  
(EMBANKMENT)**

WHEREAS, the "Pennsylvania Railroad Harsimus Branch Embankment" was built in 1901-1905 on the site of an earlier 19<sup>th</sup> century freight way to facilitate the Pennsylvania Railroad in establishing a major freight yard on the Hudson River which contributed greatly to the growth of the Port of New York and New Jersey; and

WHEREAS, the embankment, as part of the largest transportation system in the country, facilitated the dedication of most of the Jersey City Waterfront to rail and rail related uses; and

WHEREAS, the monumental stone and earth structures comprising the embankment, although lacking their connecting iron plate bridges, are rare survivors of the age of railroad transport and are especially deserving of protection; and

WHEREAS, the "Pennsylvania Railroad Harsimus Branch Embankment" deserves recognition as a series of historically significant structures which played an important part in the social and economic development of downtown Jersey City; and

WHEREAS, the designation of the "Pennsylvania Railroad Harsimus Branch Embankment" as a historic landmark would protect and preserve the structure from demolition or alteration without review by the Jersey City Historic Preservation Commission; and

WHEREAS, the subject property is currently located at the following blocks and lots:

Block: 212	Lot: A
247	50.A
280	50.A
317.5	50.A
354.1	50.A
389.1	A

and

WHEREAS, the subject property is currently owned by the Consolidated Rail Corporation otherwise known as Conrail; and

WHEREAS, Chapter 345, Article 30, Section F, "Procedure for Nominating Sites, Landmarks and Districts for Local Designation" provides that "Any interested party may nominate a site, landmark or district for local designation. The nomination may originate at either the Historic preservation Commission, the Planning Board or City Council; however in any case, it shall be reviewed by all these bodies;" and

WHEREAS, a petition for local landmark designation for the "Pennsylvania Railroad Harsimus Branch Embankment" was submitted to the Historic Preservation Commission on July 8<sup>th</sup> 2002; and

WHEREAS, at the July 8<sup>th</sup> 2002 regular meeting of the Jersey City Historic Preservation Commission, the Commission did review the petition and recommend its approval; and

WHEREAS, at the December 16, 2002 regular meeting of the Jersey City Planning Board, the Planning Board did review the recommendation of the Historic Preservation Commission dated August 6<sup>th</sup> 2002 and the State and National Registers of Historic Places Nomination and recommended submission to the City Council for approval;

Continuation of City Ordinance 03-010 page 2

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO THE CITY CODE CHAPTER 345, LAND  
DEVELOPMENT ORDINANCE, ARTICLE 30, HISTORIC PRESERVATION  
(EMBANKMENT)**

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the City of Jersey City that City Code Chapter 345 Land Development Ordinance §345-30 "Historic Preservation Review and Procedures" be amended as follows: (Material indicated by bold italic *thusly* is new material that is intended to be enacted.)

**Section 345-30 Historic Preservation Review and Procedures**

**C. Historic Districts/Landmarks**

Pursuant to this section, the following historic districts and landmark buildings, objects, sites, structures or landscape features are designated and recognized as "historic" and shall enjoy the protection of law as herein provided.

Landmarks:	Date
<i>Pennsylvania Railroad Harsimus Branch Embankment</i>	<i>[Date of City Council Adoption]</i>
Apple Tree House	5-24-2000
Ellis Island	6-22-1994
Dickinson High School	5-27-1980
Historic Districts:	
Harsimus Cove	7-21-1983
Hamilton Park	2-1-1977
Van Vorst Park	2-1-1977
Paulus Hook	2-1-1977

**BE IT FURTHER ORDAINED THAT:**

- All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- This ordinance shall take effect at the time and in the manner as provided by law.
- The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.

  
Robert D. Cotter, PP, AICP  
Director, Division of City Planning

APPROVED: \_\_\_\_\_

APPROVED AS TO LEGAL FORM

APPROVED:   
Robert D. Cotter, PP, AICP

  
Corporation Council

Certification Required ☐

Not Required ☒

0000002



JAN-06 03 11:03 FROM:JC CLERK

2015475461

TO: 732 549 7926

0000/000

PAGE:05

### SUMMARY

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE CITY CODE CHAPTER 345, LAND  
DEVELOPMENT ORDINANCE, ARTICLE 30, HISTORIC PRESERVATION  
(ALL LANDMARKS)**

This ordinance would officially adopt an amendment to the City's Land Development Ordinance to list Municipal Historic Landmarks and Municipal Historic Districts (Chapter 345, Article 30, Section G.) that will provide an essential and accurate record of Landmarks and Historic Districts and ensure protection for Historic Landmarks and Districts.

Date Submitted to B.A. \_\_\_\_\_

**ORDINANCE FACT SHEET**

1. **Full Title of Ordinance:**  
ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO THE CITY CODE CHAPTER 345, LAND DEVELOPMENT  
ORDINANCE, ARTICLE 30, HISTORIC PRESERVATION
2. **Name and Title of Person Initiating the Ordinance:**  
Mark Munley, Director, HEDC
3. **Concise Description of the Program, Project or Plan Proposed in the Ordinance:**  
This ordinance adopts an amendment to the City's Land Development Ordinance recognizing the  
"Pennsylvania Rail Road Harsimus Branch Embankment" as a locally designated Historic  
Landmark.
4. **Reasons (Need) for the Proposed Program, Project, etc.:**  
The "Pennsylvania Rail Road Harsimus Branch Embankment" is a series of structures spanning  
six blocks along Sixth Street, which once carried freight through downtown Jersey City to the  
railroad's Harsimus Yards. The structures, once joined by plate girder bridges, are mainly  
constructed of massive masonry retaining walls and earthen fill and measure approximately 400  
feet long by 100 feet wide.  
  
In 1997, local preservationists began the process of achieving landmark status in order to preserve  
these historically significant structures. The State Historic Preservation Office has listed the  
structures on the State Register of Historic Places. The Jersey City Historic Preservation  
Commission and the Jersey City Planning Board have formally recommended Municipal  
Landmark Designation.
5. **Anticipated Benefits to the Community:**  
The proposed amendments will protect the structures from demolition or significant alteration  
without review by the Jersey City Historic Preservation Commission and the City's Historic  
Preservation Specialist. The structures, which are a significant reminder of the role of railroads in  
the history of downtown Jersey City, are important to complete the interpretation of the adjoining  
historic districts of Harsimus Cove and Hamilton Park.
6. **Cost of Proposed Project (Requirement):**  
\$0.00 There are no new costs to the City.
7. **Date Proposed Requirement will commence:**  
Immediately upon adoption
8. **Anticipated Completion Date:**  
Immediately upon adoption
9. **Person Responsible for Coordinating Proposed Program, Project, etc.:**  
Robert D. Cotter, Director of City Planning 547-5050
10. **Additional Comments:**  
None

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director Signature

12/3/02  
Date

(Achrg)   
Department Director Signature

12/10/02  
Date

V

CITY OF  
**JERSEY CITY**

GLENN D. CUNNINGHAM  
MAYOR



CITY HALL  
JERSEY CITY, NJ 07302  
TEL: (201) 547-5200  
FAX: (201) 547-4288

October 27, 2003

Robert Ryan, Real Estate Director  
Conrail  
510 Thornall Street, Suite 390  
Edison, New Jersey 08837

**Re: Pennsylvania Railroad Harsimus Stem Embankment Preservation  
Coalition, Sixth Street Jersey City**

Dear Mr. Ryan:

I am writing in response to your communication of March 13, 2003 regarding the Pennsylvania Railroad Harsimus Stem Embankment, Sixth Street Jersey City.

At this time, I would like to open up a dialogue with Conrail as well as the Embankment Preservation Coalition regarding the maintenance of the integrity of the remaining embankment. Perhaps a way to keep the property intact would be to look at public or private funding or grants. I would appreciate if you would be kind enough to contact my office to schedule an appointment to discuss the matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Glenn Cunningham', is written over a horizontal line.

MAYOR GLENN D. CUNNINGHAM

bcc: Maureen Crowley, President  
Embankment Preservation Coalition

W

# CONRAIL®



By UPS

April 12, 2005

Mr. Thomas M. Scholtis  
Technical Support  
State of New Jersey - Department of Transportation  
1035 Parkway Avenue CN 614  
Trenton, NJ 08625 - 0614

Re: Case 72931 - Jersey City, Hudson County, NJ - Proposed Sale of property by Consolidated Rail Corporation to SLH Holding Corporation of former Penn Central Harsimus Branch

Dear Mr. Scholtis:

Subject to regulatory approval of the New Jersey Department of Transportation ("NJDOT"), Consolidated Rail Corporation ("Conrail") has entered into an option agreement with SLH Holding Corporation ("SLH"), which, if exercised, would convey to SLH up to eight parcels of property between approximate railroad Mile Post 0.18 and Mile Post 0.88, containing a total of 6.2 acres, more or less, for consideration of \$3,000,000. The location of the proposed sale parcels is shown on the attached Exhibit A, pages 1 of 2 and 2 of 2.

This transaction stems from a bid solicitation sent to all known parties of interest in the fall of 2002 (a copy of the bidder listing is attached as information). SLH met Conrail's minimum bid price and conditions of sale and subsequently entered into an Agreement of Sale as of June 24, 2003, which was subsequently extended as to certain conditions, deadlines and due dates.

The Agreement of Sale gives SLH the option to purchase all of the aforementioned parcels or to purchase only Block 415, Lots 1 and 3, and Block 446, Lot 15, as shown on attached Exhibit G. Closing must occur on or before November 15, 2005. SLH has completed its due diligence and all other deadlines set forth in the Agreement of Sale have passed. Conrail is now waiting for SLH to decide which (if either) option it will exercise.

Given the proposed transaction's lack of impact to Conrail's operations or continuing rights to use the affected property, we respectfully request that the formal regulatory filing and publication requirements governing sales affecting railroad property

be waived. If you require any other information regarding this matter to assist in your review, please advise.

We will appreciate receiving from you a letter indicating that NJDOT has no regulatory interest in this transaction and that Conrail can complete this transaction with SLH in the ordinary course of business.

Very truly yours,



Robert W. Ryan  
Director, Real Estate  
Consolidated Rail Corporation  
510 Thornall Street, Suite 390  
Edison, NJ 08837  
(732) 906-3015 - voice  
(732) 549-7926 - fax



**CASE # 72931 CONRAIL RIGHT OF WAY ALONG 6TH STREET JUST WEST OF  
NEWARK AVENUE TO LUIS MUNOZ MARIN BOULEVARD  
JERSEY CITY, HUDSON COUNTY, NJ**

**BID TRACKING REPORT**

<b>PKG #</b>	<b>BIDDER</b>	<b>BID SENT</b>
201	Office of the Executive Director Jersey City Redevelopment Agency 30 Montgomery Street Jersey City, NJ 07302 - 201-547-4876	10/24/2002
202	Paul R. Debellis, Sr. The Franklin Group One Tower Drive West Paterson, NJ 07424 - 973-345-0800	10/24/2002
203	Glenn Behr Bergenwood Properties LLC 35 Asharoken Avenue Northport, NY 11768 - 631-262-8966	10/24/2002
204	Terrance Nolan Trust For Public Land 20 Community Place 2nd Floor Morristown, NJ 07960 - 973-292-1100	10/24/2002
205	Carl Zellner Realty Search 1020 Springfield Avenue - Suite 101 Mountainside, NJ 07092 - 908-233-1567	10/24/2002
206	William Brodsky The Carteret Group 275 N. Middletown Road Pearl River, NY 10965 - 914-735-6525	10/24/2002
207	John F. O'Connell Dimeling, Schreiber & Park 1629 Locust Street Philadelphia, PA 19103 - 215-546-8585	10/24/2002
208	James P. Dugan Waters, McPherson, McNeill 300 Lighting Way Secaucus, NJ 07096 - 201-863-4400	10/24/2002
209	John Caruso Caruso Construction 347 Pavonia Avenue - Rear Jersey City, NJ 07302 - 201-656-7979	10/24/2002
210	Matt Burns 660 Newark Avenue Jersey City, NJ 07306 - 201-656-8200	10/24/2002

**CASE # 72931 CONRAIL RIGHT OF WAY ALONG 6TH STREET JUST WEST OF  
NEWARK AVENUE TO LUIS MUNOZ MARIN BOULEVARD  
JERSEY CITY, HUDSON COUNTY, NJ**

**BID TRACKING REPORT**

<b>PKG #</b>	<b>BIDDER</b>	<b>BID SENT</b>
211	Louis Lopez The Applied Company 5 Marineview Plaza - Suite 500 Hoboken, NJ 07030 - 201-963-3194	10/24/2002
212	Bill Smith AJC Realty 321 Sip Avenue Jersey City, NJ 07306 - 201-324-1000	10/24/2002
213	Joseph Panepinto Panepinto Properties Inc. 30 Montgomery Street - 15 Floor Jersey City, NJ 07302 - 201-521-9000	10/24/2002
214	Steven Hyman SLH Holding Corporation 245 East 63rd Street - Apt. 35 E New York, NY 10021 - 212-486-9407	10/24/2002
215	Gerald McCann 205 Tenth Street, Apt. 7U Jersey City, NJ 07302 -	10/24/2002
216	Michael Russo Pronti Construction Corp. 192 Christopher Columbus Drive Jersey City, NJ 07302 - 201-434-4300	10/24/2002
217	Robert G. Sacks Sacks Realty Co. 225 St. Paulis Avenue Jersey City, NJ 07306 - 201-798-3500	10/24/2002
218	Laurence Miller - Attornery at Law 8 Lott Street Jersey City, NJ 07306 - 201-659-4661	10/24/2002
219	Richard W. Kanter, P.E. President Miller Construction Company 921 Bergen Avenue Jersey City, NJ 07306 - 201-798-9300	10/24/2002
220	Peter M. Mocco Counsellor At Law 345 Tenth Street, Suite C Jersey City, NJ 07302 - 201-653-7230	10/24/2002

**CASE # 72931 CONRAIL RIGHT OF WAY ALONG 6TH STREET JUST WEST OF  
NEWARK AVENUE TO LUIS MUNOZ MARIN BOULEVARD  
JERSEY CITY, HUDSON COUNTY, NJ**

**BID TRACKING REPORT**

<b>PKG #</b>	<b>BIDDER</b>	<b>BID SENT</b>
221	Maureen Crowley 263 Fifth Street Jersey City, NJ 07302 - 201-963-0232	11/22/2004
222	Frank Palmaccio 242 Avenue C Bayonne, NJ 07002	1/2/2003
223	Anthony Dell'Aquila 1103 Harvard Place Fort Lee, NJ 07024	1/2/2003

X

**JOHN J. CURLEY LLC**  
Attorneys at Law

**John J. Curley**

5 Marine View Plaza, Suite 320  
Hoboken, New Jersey 07030  
Tel: (201) 217-0700 Fax: (201) 217-9765

**JCurley@curlaw.com**

Jersey City Office  
660 Newark Avenue  
Jersey City, New Jersey 07306

June 7, 2005

John K. Fiorilla, Esq.  
Capehart Scatchard, P.A.  
Laurel Corporate Center  
8000 Midlantic Drive – Suite 300  
Mount Laurel, NJ 08054

Re: 6<sup>th</sup> Street Embankment Project  
Jersey City, New Jersey  
Our File No. 319.9405  
Your File No. 0476.50485

Dear Mr. Fiorilla:

I represent the City of Jersey City in connection with its acquisition of the above property.

An amendatory ordinance authorizing the condemnation of an omitted Conrail parcel was passed by the City Council at its meeting last night. A copy of that ordinance will be supplied to you upon receipt.

It is the City's intent to inquire all of the property owned by Conrail forming a part of the 6<sup>th</sup> Street Rail Embankment. The City may or may not acquire other property in addition to the Conrail parcels.

I would appreciate your advising as to when it would be convenient to schedule an appraisal inspection of all of the Conrail parcels included in the ordinances adopted by the City of Jersey City.

If you are unable to supply me with a date that is convenient for an appraisal inspection, I will proceed in accordance with N.J.S.A. 20:3-16.

I would also appreciate your providing me with the following information which would be helpful towards accomplishing this acquisition through a voluntary sale:

RECEIVED

JUN 09 2005

**JOHN J. CURLEY LLC**

John K. Fiorilla, Esq.

June 7, 2005

Page 2

1. Proof of the abandonment of the rail use of the property through Surface Transportation Board or other similar federal administrative procedures.
2. Copies of any contracts, option agreements, leases or other agreements which may affect Conrail's ownership of the property.
3. Copies of any railroad valuation maps or surveys which depict the property.
4. Any title insurance policies or title insurance commitments obtained by Conrail or others purporting to disclose the condition of title to the properties.

Your cooperation in this regard would be greatly appreciated.

Very truly yours,

JJC:DB

  
John J. Curley

cc: Joanne Monahan, Asst. Corporation Counsel  
Ms. Maureen Crowley  
Mr. Hugh A. McGuire, Jr.  
Mr. Paul T. Beisser, III

cc: Mr. Robert W. Ryan  
Director of Real Estate  
Consolidated Rail Corporation  
510 Thornall Street, Suite 390  
Edison, NJ 08837

Y



# State of New Jersey

DEPARTMENT OF TRANSPORTATION

P.O.Box 600

Trenton, New Jersey 08625-0600

RICHARD J CODEY  
Acting Governor

JACK LETTIERE  
Commissioner

June 10, 2005 *Rac'd 6/14/05*

Robert W. Ryan  
Director, Real Estate  
Conrail  
510 Thornall Street, Suite 390  
Edison, NJ 08837

Dear Mr. Ryan:

The New Jersey Department of Transportation (NJDOT), Bureau of Freight Services, has reviewed the petition covering Case #72931 – Jersey City, Hudson County, NJ.

The NJDOT has no regulatory interest in this transaction as it pertains to rail freight movement.

Sincerely,

*James L. Badgley*  
James L. Badgley  
Manager  
Freight Services

c: P. Larkins/NJDOT Right-of-Way



*Z*



John K. Fiorilla  
856.914.2054  
jfiorilla@capehart.com

June 17, 2005

**Via Fax and Regular Mail**

John J. Curley, Esq.  
John J. Curley, L.L.C.  
Suite 320  
5 Marine View Plaza  
Hoboken, NJ 07030

Re: Consolidated Rail Corporation – Jersey City Railroad Embankment  
Your File No. 319.9405  
Our File No. 0476.50485  
*6th Street Embankment Project*

Dear Mr. Curley:

This letter is in response to yours of June 7, 2005 regarding the Jersey City Railroad Embankment which is owned by my client, Consolidated Rail Corporation.

Please note that, although my client is still the fee owner of this property, SLH Holding Corporation has an option to purchase the property and that option includes enhanced authority regarding condemnation, zoning, and development approval. SLH Holding Corporation is represented by Edward D. McKirdy, Esq. of Morristown, New Jersey and Carmine Alampi, Esq. of Hackensack, New Jersey.

Regarding a convenient date for appraisal inspections, Conrail's real estate offices are currently being moved from Edison, New Jersey to Elizabeth, New Jersey and the boxing and moving of records, including the valuation maps you requested, is currently underway. Our client would like to set up a convenient date for the appraisal inspections after July 15, 2005 when the moving and adjustments involved in the move (and vacations of some of the involved employees) will be concluded. Please call me about this.

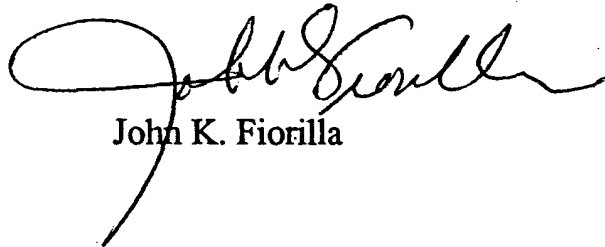
John J. Curley, Esq.  
Our File No. 0476.50485  
June 17, 2005  
Page 2

You should also be aware that the Jersey City Embankment, which is a portion of the Conrail Harsimus Branch, was abandoned in April, 1994 without application to the Interstate Commerce Commission pursuant to federal law which does not require formal ICC (now Surface Transportation Board) approval. Please also note that Conrail has no title insurance commitments regarding the property which it obtained from the Trustees of the Penn Central Transportation Company at Conrail's creation in April, 1976 pursuant to the Regional Rail Reorganization Act and the orders of the Special Court of Rail Reorganization.

I look forward to hearing from you regarding the appraisal inspection date so that we may set mutually convenient times.

Sincerely,

CAPEHART & SCATCHARD, P.A.

A handwritten signature in dark ink, appearing to read "John K. Fiorilla", with a large, stylized loop at the beginning and a long, sweeping underline.

John K. Fiorilla

JKF/ajd

cc: Edward D. McKirdy, Esq.  
Carmine Alampi, Esq.  
Mr. Robert W. Ryan

AJD/S02005

AA

Document No.

UNJ-CRC-RP-4

*Hudson*

DEED

FILED AND RECORDED  
OCT 12 1978  
DONALD LAN  
SECRETARY OF STATE

THIS DEED IS MADE BY AND BETWEEN

FAIRFAX LEARY,

AS TRUSTEE OF THE PROPERTY OF

THE UNITED NEW JERSEY RAILROAD AND CANAL COMPANY, DEBTOR

("Grantor"), whose address is 1404 Mt. Pleasant Road,  
Villanova, Pennsylvania 19085

AND

CONSOLIDATED RAIL CORPORATION,

*UNLOCATED*

a corporation organized and existing under the laws of the  
Commonwealth of Pennsylvania ("Grantee"), whose address is 1818 Market Street,  
Philadelphia, Pennsylvania 19103.

WHEREAS, the Debtor is a railroad in reorganization under Section 77 of the Federal Bankruptcy Act, 11 U.S.C. Sec. 206, and is a railroad in reorganization as that term is defined in the Regional Rail Reorganization Act of 1973 (Public Law 93-236, 87 Stat. 985), as amended ("Act"); and

WHEREAS, by orders of the United States District Court for the Eastern District of Pennsylvania entered in Docket No. 70-347-A the above-named individual was duly appointed and is now serving as Trustee of the property of the Debtor; and

WHEREAS, the United States Railway Association, pursuant to Section 209 (c) of the Act, has certified to the Special United States District Court established pursuant to Section 209 (b) of the Act ("Special Court"), that the rail properties of the Debtor hereinafter described (except those hereinafter reserved and excepted) are to be transferred by the Grantor to the Grantee; and

WHEREAS, pursuant to Section 303 (b) (1) of the Act, the Special Court has ordered the Grantor to convey to the Grantee all of the Grantor's right, title and interest in such rail properties, free and clear of any liens or encumbrances as provided in Section 303 (b) of the Act;

NOW, THEREFORE, pursuant to the Order of the Special Court, the Grantor hereby grants and conveys to the Grantee:

A. All of the Grantor's right, title and interest, legal and equitable, in and to the real property located in the

County of Hudson, State of New Jersey  
as described in Exhibit A attached to this Deed as a part hereof, together with all of the appurtenances, hereditaments, franchises, ways, waters, minerals, rights, privileges, improvements, fixtures, licenses, leaseholds, reversions, easements, rights under operating, trackage and joint facility agreements, rents, issues, profits and other interests and items belonging to or in any way appertaining to such real property, including but not limited to all real property items that would properly be recorded in Accounts 1 through 45 and 90 of the Property Accounts prescribed by the Interstate Commerce Commission for Railroad Companies in its Uniform System of Accounts, 49 C.F.R. Part 1201, to the extent that such interests and items belong or in any way appertain to such real property, except as those interests and items belong or appertain to the real property hereinafter reserved and excepted.

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B. 1. The easements and rights to use, operate, maintain, repair, renew, replace and remove on, under, over and across the real property hereinafter reserved and excepted ("Grantor's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantor's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property conveyed by this Deed.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B attached to this Deed as a part hereof and burdening certain real property hereinafter reserved and excepted.

3. The Grantee shall give the Grantor reasonable notice before entering on the Grantor's Burdened Property to exercise the easements and rights conveyed in this Paragraph B, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantor's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantor and (c) so as not to increase materially the burden on the Grantor's Burdened Property existing on the date of delivery of this Deed. The Grantee shall indemnify and save the Grantor harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantor or the Grantee. Upon request of and at the expense of the Grantor, the Grantee shall execute and deliver to the Grantor a deed or other instrument releasing the Grantee's rights in any part of the Grantor's Burdened Property that is not used or reasonably needed by the Grantee in the exercise of the easements and rights conveyed in this Paragraph B.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantor's Burdened Property, the Grantor may, at the Grantor's expense and after obtaining the Grantee's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantor without unreasonable interference to the Grantee's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantee will not have reasonable access to the relocated Easement Item. If the Grantee has previously released its easements and rights in any real property as provided in Paragraph B. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantor shall execute and deliver to the Grantee a supplementary deed of easement which conveys to the Grantee with respect to the relocated Easement Item the easements and rights described in this Paragraph B.

(b) The Grantee shall execute and deliver to the Grantor a deed or other instrument of release as provided in Paragraph B. 3.

5. The Grantor shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph B.

RESERVING AND EXCEPTING, HOWEVER, TO THE GRANTOR:

C. All the respective right, title and interest of the Grantor, legal and equitable, in and to the real property described in Exhibit B attached to this Deed as a part hereof, but subject, however, to (a) the limitation of access thereto across the real property conveyed by this Deed as hereinafter provided and (b) the easements and rights conveyed pursuant to Paragraph B above.

D. 1. The easements and rights to use, operate, maintain, repair, renew, replace and remove on, under, over and across the real property conveyed by this Deed ("Grantee's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantee's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property reserved and excepted from this conveyance.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B to this Deed and burdening certain real property conveyed by this Deed.

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DONALD LANG  
SECRETARY OF STATE

3. The Grantor shall give the Grantee reasonable notice before entering on the Grantee's Burdened Property to exercise the easements and rights reserved and excepted in this Paragraph D, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantee's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantee and (c) so as not to increase materially the burden on the Grantee's Burdened Property existing on the date of delivery of this Deed. The Grantor shall indemnify and save the Grantee harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantee or the Grantor. Upon request of and at the expense of the Grantee, the Grantor shall execute and deliver to the Grantee a deed or other instrument releasing the Grantor's rights in any part of the Grantee's Burdened Property that is not used or reasonably needed by the Grantor in the exercise of the easements and rights reserved and excepted in this Paragraph D.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantee's Burdened Property, the Grantee may, at the Grantee's expense and after obtaining the Grantor's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantee without unreasonable interference to the Grantor's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantor will not have reasonable access to the relocated Easement Item. If the Grantor has previously released its easements and rights in any real property as provided in Paragraph D. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantee shall execute and deliver to the Grantor a supplementary deed of easement which conveys to the Grantor with respect to the relocated Easement Item the easements and rights described in this Paragraph D.

(b) The Grantor shall execute and deliver to the Grantee a deed or other instrument of release as provided in Paragraph D. 3.

5. The Grantee shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph D.

E. All mineral rights owned by the Grantor in any parcel as to which an interest in the surface is not conveyed by this Deed.

TO HAVE AND TO HOLD the real property and the easements and rights hereby conveyed to the Grantee, free and clear of (a) any liens or encumbrances as provided in Section 303 (b) of the Act and (b) any and all easements and rights of access to the real property reserved and excepted from this conveyance across the real property conveyed by this Deed (except as otherwise provided in this Deed), even if such easements and rights would otherwise arise by reason of necessity, implication or other operation of law, statute, ordinance, rule or regulation of any governmental entity, BUT SUBJECT, HOWEVER, to (i) those easements and rights reserved and excepted in Paragraph D above, (ii) all existing licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation), and operating, trackage right and joint facility agreements and (iii) Operating Rights Grants, if any, from the Grantor to a third party conveyed concurrently with this conveyance and identified in Exhibit B to this Deed.

The Grantor hereby covenants that the Grantor will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantee to convey, confirm, clarify, identify or more precisely describe the real property and the easements and rights conveyed by this Deed or intended so to be in order to carry out the intent of this Deed in light of the designations contained in the Final System Plan which has been certified to the Special Court by the United States Railway Association pursuant to the Act, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

The Grantee hereby covenants that the Grantee will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantor to confirm, clarify, identify or more precisely describe the real property and the easements and rights reserved and excepted from this conveyance or intended so to be in order to carry out the intent of this Deed in light of the designations contained in such Final System Plan, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

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DONALD L. LAM  
CLERK OF SUPERIOR COURT

By acceptance of this Deed, the Grantee (a) agrees to perform each of the obligations imposed on the Grantee by the terms of this Deed, and (b) assumes and agrees to perform and observe all obligations and conditions on the part of the Grantor or the Grantor's predecessor in title to be performed or observed that arise or accrue after the date of delivery of this Deed under all licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation) and operating, trackage right and joint facility agreements (subject, however, to the terms thereof) which are conveyed by this Deed and under those to which this conveyance is made subject, provided that the Grantee assumes no obligation or liability that arises after the date of delivery of this Deed out of any event, act or failure to act that occurred prior thereto and, where an obligation or liability is related to a period which is both before and after such date, the Grantee assumes only that portion of the obligation or liability which is reasonably allocable to the part of the period after such date. Concurrently with the delivery of this Deed, the Grantee is delivering to the Grantor a separate instrument executed by the Grantee acknowledging receipt and acceptance of this Deed and affirming the provisions of this paragraph.

All of the covenants of the Grantor and the Grantee, respectively, shall be deemed to be real covenants and shall run with the land.

The words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this Deed so requires and, whether singular or plural, such words shall be deemed to include in all cases the successors and assigns of the respective parties.

This conveyance and the specific covenants of the Grantor are made by the Grantor as Trustee of the property of the Debtor, and not individually, and this conveyance is made without covenants of title or any warranties express or implied.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 31<sup>st</sup> day of March, 1976.

Signed and Acknowledged  
in the Presence of:

Anna B Freund  
Anna Freund

Robert S Reichert

Fairfax Leary L.S.  
FAIRFAX LEARY, AS  
TRUSTEE OF THE PROPERTY OF THE  
UNITED NEW JERSEY RAILROAD  
AND CANAL COMPANY, DEBTOR

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DONALD LAN  
SECRETARY OF STATE

DISTRICT OF COLUMBIA, SS:

On this 31<sup>st</sup> day of March, 1976, before me, a Notary Public authorized to take acknowledgements and proofs in the District of Columbia, personally appeared Fairfax Leary, personally known to me to be the person whose name is subscribed to the foregoing Deed, bearing the same date as this certificate of acknowledgement, and acknowledged himself to be the Trustee of the Property of The United New Jersey Railroad and Canal Company, Debtor, and that he executed the foregoing Deed as his free act and deed as such Trustee for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



This instrument prepared By:

United States Railway Association  
Pursuant to the Act

Barbara P. Klein

June 30, 1979

161-3286 760



Document No.

UNJ-CRC-RP-4

**EXHIBIT A**

TO THE DEED BY AND BETWEEN

FAIRFAX LEARY,

AS TRUSTEE OF THE PROPERTY OF

THE UNITED NEW JERSEY RAILROAD AND CANAL COMPANY, DEBTOR

AND

CONSOLIDATED RAIL CORPORATION

DESCRIPTION OF REAL PROPERTY

LOCATED IN

County of Hudson, State of New Jersey

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For the purpose of each description contained in this Exhibit A (and solely by way of illustration and not by way of limiting the generality of the term "adjacent"), adjacency shall be deemed to exist without regard to the existence of any public or private street, highway, alley or other way between one part of the Grantor's real property and another.

This Exhibit A consists of the following pages only: A-1, A-2, A-3, A-4, A-5, A-7, A-8, A-9, A-10, A-11.

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A-1

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Harsimus Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County at Harsimus Cove, passes through Journal Square, and terminates in the County near the junction with the Penn Central New York-Philadelphia Main Line, west of the New Jersey Turnpike Overhead Bridge.

The line of railroad described herein is identified as Line Code 1420 in the records of the United States Railway Association.

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UNJ-3286-762

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Document No.  
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Situate in the County of Hudson, State of New Jersey, and being the United New Jersey Railroad and Canal Company's line of railroad known as The Penn Central Hudson Street Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near Montgomery and Hudson Streets in Jersey City, connecting to another line of railroad known as the Harsimus Cove Yard, passes through Hudson Street, Essex Street, and Warren Street and terminates in the County 1 1/2 blocks west of the intersection of Warren and Essex Streets.

The line of railroad described herein is identified as Line Code 1440 in the records of the United States Railway Association.

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**EXHIBIT B**

TO THE DEED BY AND BETWEEN

FAIRFAX LEARY,

AS TRUSTEE OF THE PROPERTY OF

THE UNITED NEW JERSEY RAILROAD AND CANAL COMPANY, DEBTOR

AND

CONSOLIDATED RAIL CORPORATION

**FILED AND RECORDED**  
**OCT 12 1979**  
**DONALD LAN**  
**SECRETARY OF STATE**

**DESCRIPTION OF REAL PROPERTY**

**LOCATED IN**

County of Hudson, State of New Jersey

**RESERVED AND EXCEPTED BY THE GRANTOR**

Each map referred to in this Exhibit B bears the Document Number which appears hereon. A copy of each map is on file in the office of the United States Railway Association and a copy of each map has been certified by the United States Railway Association to the Special Court and filed in the office of the Clerk of the Special Court in the United States District Courthouse in Washington, D.C.

The United States Railway Association has delivered a copy of each such map to both the Grantor and the Grantee and has certified on each such copy that it is a true copy of the map filed in the office of the Clerk of the Special Court.

This Exhibit B consists of the following pages only: B-1, B-2, B-3, B-4, B-4-A, B-4-B, B-4-C, B-5-Revised, B-5-A, B-5-B, B-6, B-8, B-9, B-10-Revised, B-11-Revised, B-12-Revised, B-13-Revised, B-14-Revised, B-15-Revised, B-16-Revised, B-17-Revised, B-18-Revised, B-19-Revised, B-19-A, B-20, B-21-Revised, B-21-A, B-21-B, B-22, B-23-Revised, B-24, B-25, B-25-A, B-27, B-28-Revised, B-29, B-29-A.

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UNJ-3286 771

All those parcels of land situate in the City of Jersey City, County of Hudson, State of New Jersey, being designated Parcel Nos. NJ ALON-011 and NJ ALON-023 on Railroad Valuation Map No. 370-8377-1-ST1-1, as revised to December 31, 1965, and being all of the land of The United New Jersey Railroad and Canal Company, as shown on the Map, bounded and described as follows:

Beginning at a point on the southwesterly line of Morgan Street, distant 15 feet, measured northwestwardly and radially from the centerline of Ball Ground Loop Track, of said Railroad and Canal Company, as it was located on December 3, 1975;

Thence, extending from said beginning point the following nine courses and distances: (1) southwestwardly and westwardly and parallel and concentric to said centerline 1050 feet, more or less, to a point on the easterly line of Warren Street; thence, (2) northeastwardly along said line 25 feet, more or less, to a point in the southwesterly line of land of others;

The following three courses and distances being by land of others: (3) southeastwardly 125 feet, more or less, to an angle point in the railroad property line; (4) northeastwardly 30 feet, more or less, to another angle point; (5) northwestwardly 125 feet, more or less, to another angle point in the said easterly line of Warren Street; thence, (6) northeastwardly along said line 170 feet, more or less, to a point on the southerly line of Steuben Avenue; thence, (7) southeastwardly along said line and eastwardly prolongation thereof 485 feet, more or less, to a point on the easterly line of Washington Street; thence, (8) along said easterly line of Washington Street, 270 feet, more or less, to another point on the aforesaid southerly line of Morgan Street; thence, (9) southeastwardly along said line of Morgan Street, 350 feet, more or less, to the point of beginning.

The above described parcel or parcels are identified in the records of the United States Railway Association as Line Code 1420-1.0.

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DONALD LAN  
SECRETARY OF STATE

All that parcel of land situate in the City of Jersey City, County of Hudson, and State of New Jersey, being designated Parcel No. NJA 10n 05-9 on Railroad Valuation Map Nos. 370-8377-1-ST1-1, as revised to December 31, 1965, and 370-8375-1-ST2-1, as revised to December 31, 1966, and being all of the land of The United New Jersey Railroad and Canal Company, as shown on the Map, bounded and described as follows:

Beginning at a point on line of land of Penn Central Transportation Company, distant 40 feet, measured southeastwardly and radially from the centerline of No. 12 Team Track and 560 feet, more or less, distant, measured northwardly at right angles from the northerly line of Montgomery Street;

Extending from said beginning point the following thirteen courses and distances: (1) northeastwardly and parallel to said centerline 200 feet to a point;

Thence, (2) northwestwardly at right angles to the last described course 25 feet, more or less, to a point distant 15 feet, measured southeastwardly and radially from said centerline;

Thence, (3) northeastwardly and parallel to said centerline and its tangent prolongation 615 feet, more or less, to a corner in the line of land of others; the following ten courses and distances being by land of others:

(4) southeastwardly, 150 feet, more or less, to a point in the northwesterly line of land of others; thence, (5) southwestwardly, along said line of land of others, 280 feet, more or less, to a point; thence, (6) northwestwardly, 90 feet, more or less, to an angle point in the railroad property line; thence, (7) southwestwardly, 125 feet, more or less, to an angle point in the railroad property line; thence, (8) southerly, 45 feet, more or less, to an angle point in the railroad property line; thence, (9) southeastwardly, 55 feet, more or less, to an angle point in the railroad property line; thence, (10) southwestwardly, 30 feet, more or less, to an angle point in the railroad property line; thence, (11) southeastwardly, 25 feet, more or less, to an angle point in the railroad property line; thence, (12) southwestwardly, 330 feet, more or less, to a point in the northeasterly line of land of others; thence, (13) southwestwardly along said line of land of others, 150 feet, more or less, to the point of beginning.

The above described parcel or parcels are identified in the records of the United States Railway Association as Line Code 1420-1.0.

Subject to the easement and right to use, operate, maintain, repair, renew, replace and remove the existing track or tracks on and across the above described property.

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All of that parcel of land situate in the City of Jersey City, County of Hudson, and State of New Jersey, being designated Parcel No. NJ.A10n 07-4 on Railway Valuation Map No. 370-8375-1-ST2-1 as revised to December 31, 1965, and being all of the land, as shown on the Map, of The United New Jersey Railroad and Canal Company which is bounded and described as follows:

Beginning at a point at a corner of the land of other owners, which point is distant 510 feet, +, measured eastwardly and at right angles from the easterly line of Washington Street and also distant 60 feet, +, measured northwardly and at right angles from the prolongation eastwardly of the southerly line of Second Street;

Thence, extending (1) northwardly along an easterly line of land of other owners 850 feet, +, to a point on the southerly line of the Berwind White Coal Mining Company's Coal Pier "M"; thence (2) eastwardly along said southerly line of the Berwind White Coal Mining Company's Coal Pier "M" and continuing eastwardly along the prolongation eastwardly of said southerly line 1,835 feet, +, to a point on the Modified Pier Head Line as approved by The Secretary of War on January 13, 1931; thence (3) southwardly along said Modified Pier Head Line 1,445 feet, +, to a point at a corner of the land of other owners; thence (4) westwardly along the northerly line of said land of other owners 890 feet, +, to a point at the corner of the land of other owners; thence (5) northwardly along an easterly line of land of other owners 565 feet, +, to a point at a corner of land of other owners; thence (6) westwardly along a northerly line of land of other owners 810 feet, +, to the point and place of beginning.

The above described parcel is identified in the records of the United States Railway Association as Line Code 1420/1.0.

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All that tract of land described as two parcels situate in the City of Jersey City, County of Hudson, and State of New Jersey, being designated Parcel No. NJ.A101 17-4 on Railway Valuation Maps Nos. 370-8375-1-ST1-1 as revised to December 31, 1965, and 370-8375-1-ST2-1 as revised to December 31, 1966, and being all of the land, as shown on the Maps, of The United New Jersey Railroad and Canal Company which is bounded and described as follows:

The First Parcel

Beginning at a point on the centerline of Sixth Street, said point being the intersection of the said centerline of Sixth Street with the centerline of Warren Street;

Thence, extending (1) northwardly along the said centerline of Warren Street 115 feet, +, to a point distant 20 feet measured southwardly and radially from the centerline of the southernmost track of said Railroad and Canal Company; thence (2) curving to the right in a general southeasterly direction 330 feet, +, to a point distant 20 feet measured northwestwardly and radially from the centerline of the first wye track of the said Railroad and Canal Company; thence (3) westwardly and northwardly parallel with said wye track 665 feet, +, to a point in the line of Sixth Street; thence (4) northwardly at right angles from the last previous course 20 feet, +, to a point on the centerline of said Sixth Street; thence (5) eastwardly along said centerline of Sixth Street 340 feet, +, to a point on the centerline of Warren Street, the point of ending.

The Second Parcel

Beginning at a point on the centerline of Seventh Street, said point being the intersection of the said centerline of Seventh Street with the centerline of Warren Street;

Thence, extending (1) eastwardly by a southerly line of land of other owners 2,900 feet, +, to a point on the Modified Pier Head Line as approved by the Secretary of War on January 13, 1931; thence, extending (2) southwardly along said Modified Pier Head Line 445 feet, +, to a point on the prolongation eastwardly of the southerly line of the Berwind White Coal Mining Company's Coal Pier "M"; thence (3) westwardly along said prolongation eastwardly 450 feet, +, to a point on the prolongation southwardly of a line drawn northwardly and southwardly through the easternmost points of the centerlines of the four railroad tracks of the said Railroad and Canal Company which terminate at the said Railroad and Canal Company's Transfer Bridges Nos. 8 and 9; thence

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(4) northwardly along said prolongation southwardly 100 feet to a point; thence (5) westwardly and at right angles from the last described course 710 feet to a point; thence (6) southwardly at right angles from the last described course 15 feet to a point; thence (7) westwardly at right angles from the last described course 350 feet to a point; thence (8) northwardly at right angles from the last described course 90 feet to a point; thence (9) westwardly at right angles from the last described course 140 feet to a point; thence (10) northwardly at right angles from the last described course 40 feet to a point; thence (11) westwardly at right angles from the last described course 150 feet to a point; thence (12) northwardly at right angles from the last described course 20 feet, +, to a point distant 20 feet measured northwardly and at right angles from the centerline of the said Railroad and Canal Company's northernmost railroad track; thence (13) in a general westerly direction parallel to the said centerline of track 1,085 feet, +, to a point on the centerline of Warren Street, which point is distant 170 feet, +, measured northwardly along said centerline from the centerline of Sixth Street; thence (14) northwardly along said centerline of Warren Street 95 feet, +, to the point and place of beginning.

The above described tract is identified in the records of the United States Railway Association as Line Code 1420/1.0.

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B - 4 - C

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SECRETARY OF STATE

Document No. UNJ-CRC-RP-4

All that parcel of land situate in Jersey City, County of Hudson, and State of New Jersey, being designated Parcel No. NJ.A10i 02-2 on Railway Valuation Map No. 370-8377-1-2-1 as revised to December 31, 1961, and being all of the land, as shown on the Map, of The United New Jersey Railroad and Canal Company which is bounded and described as follows:

Beginning at a point formed by the intersection of the westerly line of Trenton Street with the centerline of Waldo Avenue, running thence; (1) South 56 degrees 03 minutes 31 seconds West a distance of 119.78 feet to a point; thence (2) North 59 degrees 21 minutes 57 seconds West a distance of 447.50 feet to a point; thence (3) North 60 degrees 20 minutes 27 seconds West a distance of 84.78 feet to a point in the line of lands of C. F. Mueller Company, thence for the following five courses along the line of lands of C. F. Mueller Company; (4) North 32 degrees 21 minutes 21 seconds East a distance of 121.12 feet to a point; thence (5) South 60 degrees 12 minutes East a distance of 22.38 feet to a point; thence (6) North 29 degrees 48 minutes East a distance of 137.31 feet to a point; thence (7) North 26 degrees 35 minutes East a distance of 70 feet to a point; thence (8) North 18 degrees 15 minutes East a distance of 193.20 feet to a point; thence (9) South 31 degrees 28 minutes 18 seconds East a distance of 80.39 feet to a point; thence (10) South 51 degrees 33 minutes 27 seconds East a distance of 80.35 feet to a point in the northerly line of Chestnut Avenue; thence (11) South 56 degrees 03 minutes 31 seconds West and continuing along the northerly line of Chestnut Avenue a distance of 84.31 feet to a point in the westerly line of Trenton Street as same was vacated (October 27, 1913); thence (12) South 35 degrees 28 minutes 29 seconds East a distance of 2 feet to a point along said Trenton Street as vacated; thence (13) on a curve to the left having a radius of 60 feet an arc distance of 77 feet, and continuing along said line of Trenton Street as vacated, to a point; thence (14) South 35 degrees 57 minutes 36 seconds East, and along the westerly line of Trenton Street as vacated a distance of 283.40 feet to a point; thence (15) South 35 degrees 23 minutes 12 seconds East, and along the westerly line of Trenton Street as vacated a distance of 195 feet to a point; thence (16) South 34 degrees 27 minutes 48 seconds East, and along the westerly line of Trenton Street as vacated a distance of 5.10 feet to a point in the northerly line of Waldo Avenue as extended; thence (17) South 56 degrees 03 minutes 31 seconds West and along the northerly line of Waldo Avenue as extended a distance of 18.21 feet to a point in the westerly line of Trenton Street; thence (18) South 35 degrees 28 minutes 29 seconds East and along the westerly line of Trenton Street a distance of 30 feet to a point in the centerline of Waldo Avenue said point being the point or place of beginning.

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Said parcel being in City Block 507 as shown on the Official Assessment Map of the City of Jersey City, Hudson County, New Jersey and containing 3.48 Acres.

Subject, however, to the rights of the Grantee, its successors and assigns, to use a portion of the parcel of land hereinbefore described as and for a driveway as a means of access to and from the remaining land of the said Grantee, said portion being more particularly described as:

Beginning at a point formed by the intersection of the second and third courses in the description of the entire parcel, said point also being distant 161.15 feet North and 484.82 feet West of the point of beginning of said parcel. Said point of beginning for the entire parcel is formed by the intersection of the westerly line of Trenton Street with the centerline of Waldo Avenue. From the aforementioned point of beginning, running thence; (a) North 60 degrees 20 minutes 27 seconds West a distance of 7.89 feet to a point in the southerly rail of railroad tracks; thence (b) on a curve to the right having a radius of 2,167.76 feet an arc distance of 202.84 feet along said southerly rail to a point; thence (c) North 24 degrees 29 minutes 31 seconds East, and along said southerly rail a distance of 180.00 feet to a point; thence (d) on a curve to the left having a radius of 4,011 feet an arc distance of 117.28 feet along said southerly rail to a point in the ninth course of the description of entire parcel; thence (e) South 31 degrees 28 minutes 18 seconds East, and along said ninth course of the description of the entire parcel a distance of 18.45 feet to a point distant 15 feet from said southerly rail; thence (f) on a curve to the right having a radius of 4,026 feet an arc distance of 107.14 feet and continuing 15 feet from said southerly rail, to a point; thence (g) South 24 degrees 29 minutes 31 seconds West, and continuing 15 feet from said southerly rail, a distance of 180 feet to a point; thence (h) on a curve to the left having a radius of 2,152.76 feet an arc distance of 205.66 feet and continuing 15 feet from said southerly rail, to a point, in the second course of the description of entire parcel; thence (i) North 59 degrees 21 minutes 57 seconds West, and along said second course of the description of entire parcel, a distance of 7.36 feet to a point in the third course of the description of the entire parcel, said point being the point or place of beginning.

Also subject to the permanent and perpetual rights of the said Grantee, its successors and assigns, to operate and maintain its existing railroad tracks and appurtenant devices and facilities in connection with the same located on the parcel of land hereinbefore described containing 3.48 Acres, with the right, liberty and privilege of maintaining, repairing, renewing, operating and using the same and with the free and uninterrupted right, liberty and privilege of passing at all times thereafter over and upon the same with or without locomotives, freight or other cars.

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SECRETARY OF STATE

Together with the permanent right and easement to C. F. Mueller Company, Inc., its successors and assigns, to use in common with the said Grantee, its successors and assigns, its and their lessees, agents, employees, licensees, tenants, patrons, shippers and all other persons doing business with them and with others entitled to the use thereof and with others to whom the said Grantee may hereafter grant similar rights, the existing driveway located on adjoining land of the said Grantee, as a means of access to and from the parcel of land hereinbefore described containing 3.48 acres and Academy Street, the location of said driveway being more particularly shown on plan of survey made by P. L. Caulfield, Civil Engineer, Hoboken, New Jersey dated November 3, 1975, revised November 23, 1975 and December 2, 1975, and made a part hereof by reference thereto, which easement is expressly subject to Grantee's standard Operating Department protective conditions applicable thereto inasmuch as said driveway extends across Grantee's railroad tracks at grade.

The above described parcel is identified in the records of the United States Railway Association as Line Code 1420/2.5.

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UNJ-CRC-RP-4

All that parcel of land situate in the City of Jersey City, County of Hudson, State of New Jersey, and being designated Parcel No. NJA 101 03-4 on Railroad Valuation Map No. 370-8377-1-002-1, as revised to December 31, 1961, and being all of the land of The United New Jersey Railroad and Canal Company, as shown on the Map, which lies westerly of the southwesterly line of Newark Avenue and northerly of the following described line:

Beginning at a point on the southwesterly line of Newark Avenue and distant 20 feet measured northwardly and radially from the centerline of the Near Track of the Harsimus Branch of said Railroad Company, as it was located on November 7, 1975;

Thence, extending in a westerly direction, parallel with said centerline a distance of 370 feet to a point on property line of others, the point of ending.

The above described parcel or parcels are identified in the records of the United States Railway Association as Line Code 1420-2.5.

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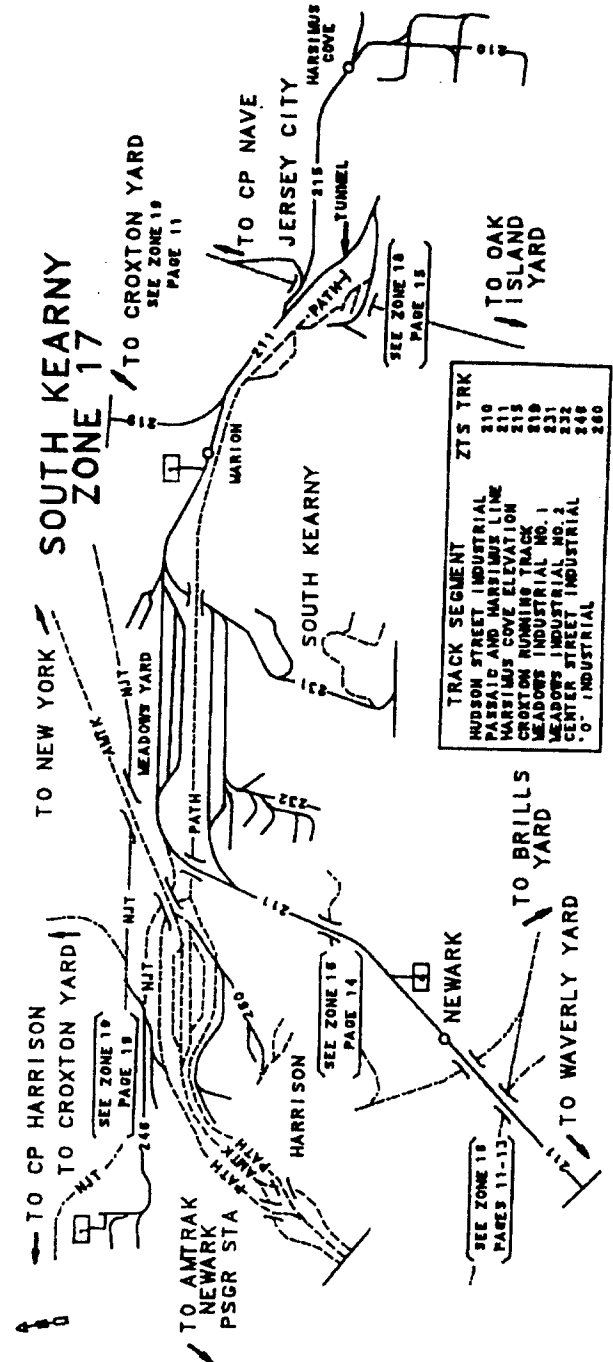
# ZONE 17

## 8. KEARNY

### LOCATION

### PAGE(S) REFERENCE

Center Street Industrial	8, 10
Harrison, NJ	8-10
Harsimus Cove Elevation Trk.	12
Hudson Street Industrial	2
Jersey City, NJ	1-3
Meadows Industrial Trk #1	4-5
Meadows Industrial Trk #2	4, 6
Meadows Yard	4
Newark, NJ	11
Passaic and Harsimus Line	1, 3-4, 11
South Kearny, NJ	4-7



EE

N.J.S.A. 48:12-125.1

Effective: [See Text Amendments]

New Jersey Statutes Annotated Currentness

Title 48. Public Utilities (Refs &amp; Annos)

■ Chapter 12. Railroads (Refs &amp; Annos)

■ Article 21A. Abandonment and Sale of Rights of Way; Notice, Etc.

→48:12-125.1. Railroad rights of way; acquisition by state or political subdivisions; notice of abandonment

In order to permit the State and its political subdivisions to receive notice of, and be afforded an opportunity to acquire, by purchase or condemnation, railroad rights of way proposed to be abandoned, any railroad company which makes application to the Interstate Commerce Commission for authority to abandon any part of its right of way on which passenger or freight services are operated, or to abandon, sell or lease any of its right of way over which services have previously been abandoned and title to such right of way currently remains with the railroad shall, within 10 days of making such application, serve notice thereof upon the State and upon each county and municipality in which any part of the right of way proposed for abandonment is located. No sale or conveyance of any part of such right of way shall thereafter be made to any person other than the State, a county or municipality for a period of 90 days from the date of approval by the Interstate Commerce Commission of the application for abandonment or from the date of service of the notice in this section required, whichever occurs later, unless prior thereto each governmental agency entitled to such notice shall have filed with the railroad company written disclaimer of interest in acquiring all or any part of said right of way. Any sale or conveyance made in violation of this act shall be void.

As used in this act "right of way" means the roadbed of a line of railroad, not exceeding 100 feet in width, as measured horizontally at the elevation of the base of the rail, including the full embankment or excavated area, with slopes, slope ditches, retaining walls or foundations necessary to provide a width not to exceed 100 feet at the base of rail, but not including tracks, appurtenances, ballast nor any structures or buildings erected thereon.

CREDIT(S)

L.1967, c. 282, § 1, eff. Jan. 18, 1968.

## HISTORICAL AND STATUTORY NOTES

1998 Main Volume

## Title of Act:

An Act concerning railroads and supplementing chapter 12 of Title 48 of the Revised Statutes. L.1967, c. 282.

N. J. S. A. 48:12-125.1, NJ ST 48:12-125.1

Current through L.2006, c.3.

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**Spur Decisions Made by Law Department**  
(Do not Reaudit IDB/STB Filings)

Line Name	Type	LC	MP 1	MP 2	Rt. Mi.	Att'y	Decision Date	Requested by
Arlington Ave. I.T. (Indianapolis, IN)	Line	60-8342	-0.90	0.70	1.60	JJP	5/1/95	F. R. Stapleton
Alford Br. (Alford, MA)	Spur	unknown				JJP	6/24/93	R. C. Krafty
Avonmore I.T. (Avonmore, PA)	Spur				1.90	JJP	11/15/95	F.B. Gossic
Axe Works I.T. (Homestead, PA)	Spur				0.60	JJP	11/1/89	M. A. Hutchinson
Beaver I. T. (Lovett, PA)	Spur	20-2144				JJP	6/1/93	J. W. Fallon
Bens Creek (Portage Dump Ttk)	Spur	20-2149	0.00	0.68	0.68	JJP	4/26/93	J. W. Fallon (04/12/93)
Bloodgood Br. (Union County, NJ)	Spur	10-0532	19.91	20.05	0.14	JJP	5/6/94	Z. Drzewiecki
Bloomfield / Belleville, NJ	Spur	unknown				JJP	5/12/93	Z. J. Drzewiecki
C-A-P Br. (Scranton, PA)	Spur				0.00	JJP	11/7/95	G. Smith
Claremont R. T. (Baltimore, MD)	Spur	20-			1.10	JKE	11/7/95	G. Cornstock
Dad's Dog Food Lead (Meadville, PA)	Line	40-6501			0.50	JJP	5/10/96	F. B. Gossic
Dillsburg Br.	Spur				0.50	JJP	6/15/95	J. Ahonen
Edgemoor I. T. (Edgemoor, DE)	Spur	10-1252	0.00	1.00	1.00	JJP	8/2/93	M. C. Rosamilia
Engleside I. T. (Phila, PA)	Spur	10-1183	0.00	0.30	0.30	JJP	6/4/93	Richard Cross
Enola Branch (Marysville, PA)	Jt. Project	xx-1326	74.00	74.40	0.40	JJP	6/6/96	A. T. Bankson
Exon Lead (Sharonville Yard Lead)	Spur	60-8211	0.00	0.67	0.67	JJP	1/4/96	F. R. Stapleton
Former Beech Creek	Spur	unknown				JJP	5/12/93	J. W. Fallon
Fort Wayne, Ind. Lead	Spur	unknown				JJP	6/24/93	R. D. Threlkeld (land sale)
Frankford St. I. T. (Trenton Ave. Ln)	Spur	10-1174				JJP	8/24/95	N. J. Prosper (track lease)
Franklin I. T. (Franklin, OH)	Spur	60-8258	3.60	4.20	0.60	JJP	5/7/93	M. S. Scime
Gettysburg I. T. (Carlisle, PA)	Spur	20-0315	0.00	0.80	0.80	JJP	11/4/93	J. W. Fallon
Grand Jct. (East Boston I. T.)	Spur	30-4132	7.67	9.50	1.83	JJP	10/9/95	J. H. Ahonen
Greencastle I. T.	Spur	unknown				JJP	6/3/93	J. W. Fallon
Harsimus Br. (Jersey City, NJ)	Spur	10-1420	0.00	1.36	1.36	JJP	4/14/94	J. R. Beard (02/16/94)
Hastings Branch (Hastings Jct., PA)	Spur	20-xxxx	0.00	2.60	2.60	JJP	8/2/93	J. W. Fallon
Herkimer Spur (Herkimer, NY)	Spur				0.00	JKE	10/26/95	J. Hindman
Hudson Sec. (Maybrook, NY)	Spur	30-0101	0.00	2.10	2.10	unknown	no letter on file	
Hudson St. I. T. (Jersey City, NJ)	Spur	10-1440	0.00	1.30	1.30	JJP	4/29/93	T. P. Dwyer
Hurley Lumber Ld (Perth Amboy)	Spur	unknown				JJP	1/20/93	Z. J. Drzewiecki (12/15/92)
Indian Run Ind. Track (Kensington, PA)	Spur	40-2288	1.10	1.30	0.20	JJP	11/9/94	F. B. Gossic
Johnstown I.T. (Johnstown, PA)	Line		1.10	1.60	0.50	JKE	11/10/95	G. R. Cornstock
Kalamazoo Br. (Grand Rapids, MI)	Spur	50-5341	94.00	94.45	0.45	JJP	5/15/96	J. Kelly
Kennedy Valve Spur (Elmira, NY)	Spur	30-6304	246.90	249.10	2.20	JJP	6/12/96 - JJP	
Lancaster Mills I. T.	Spur	30-4182	0.60	1.50	0.90	JJP	5/14/93	M. G. Peterson
Lancton Team Track / Ind. Lead	Spur	unknown				JJP	12/16/93	M. C. Rosamilia (land sale)
Landella I. T. (Salisbury, MD)	Spur	10-1239	39.40	40.80	1.40	unknown	no letter on file	
Marginal Branch	Spur	40-22JJ			0.49	JJP	6/27/97	Brian Harrison
Middle Canal/Lumber (Williamsport, PA)	Spur	20-2316	217.90	218.10	0.20	JJP	11/22/94	A. K. Robbins / G. L. Smith
Millbrook Siding (Elmira, NY)	Spur	unknown				JJP	8/2/93	M. B. Phillips (land sale)
Muncy Br. (Muncy, PA)	Spur	unknown	0.00	0.60	0.60	JJP	2/23/95	C. A. Archer (Fallon, 02/02/94)

# Spur Decisions Made by Law Department

Line Name	Type	LC	MP 1	MP 2	Rt. Mi.	Atty	Decision Date	Requested by
Niles IT (South Bend, IN)	Spur	50-5346	9.90	10.60	0.70	JJP	7/30/97	R. Dietz (Asset Opt. Dept.)
Oberlin Ind. Lead (Harrisburg, PA)	Spur	unknown	0.00	1.04	1.04	JJP	3/19/96	K. Robbins (Harrisburg Div.)
Pappas Lead (Washington, DC)	Spur	unknown				RSN	1/27/95	Donald Shappell
Perth Amboy Br.	Spur	10-0510	17.00	18.00	1.00	JJP	4/26/93	Z. J. Drzewiecki (04/13/93)
Red Key I.T. (Sweetser, IN)	Line	xx-3107	162.05	163.20	1.15	JJP	5/14/92	W. Schoelwer
S. Canton Br. (Canton, OH)	Spur	40-2402			0.00	JJP	10/5/95	F. Gossic
S. Chester Tk. (Marcus Hook, PA)	Exempt	unknown	Market St.	Green St.		JJP	4/26/94	P. Killian
Speedway I.T. (Indianapolis, IN)	Spur	60-8564	4.18	4.70	0.52	JJP	5/31/94	
Thoroughfare Track (Phila, PA)	Spur	unknown				JJP	7/2/93	P. H. Killian
Toms River I. T. (Toms River, NJ)	Spur	10-0219	4.62	5.00	0.38	JJP	6/24/93	M. C. Rosamilla
Union Belt (Marion, OH)	Spur	unknown				JJP	11/4/93	W. A. Schoelwer (request to remove track)
Wairton Secondary (Collier, WV)	Line		35.70	38.40	2.70	JKE	2/28/96	F. B. Gossic
Westland Br. (Houston, PA)	Spur	40-	0.00	0.97	0.97	JJP	11/9/94	F. Gossic